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POLITICAL SCIENCE QUARTERLY

ANNUAL REPORT OF THE PRESIDENT OF THE ACADEMY OF POLITICAL SCIENCE

THE Academy is entering its sixty-second year. I beg to report on its activities during the year 1941, briefly summarized under the categories (1) Meetings, (2) Publications, (3) Membership and (4) Finance.

MEETINGS

The two regular meetings of the year, the Semi-Annual Meeting and the Annual Meeting were held on April 16 and November 12, respectively.

The Semi-Annual Meeting was devoted to "America Faces the Future", and the Annual Meeting to "American Industry in a War of Machines". Seldom have the Academy's speakers received such enthusiastic applause as was tendered to Mr. Fraser and Mr. Knudsen at the Spring Meeting and to President Wriston at the Annual Meeting. Other distinguished speakers participated in each of these programs. The representative and large audiences, and the publicity in connection with both meetings, were very gratifying. The members of the Program Committees and all the speakers have received the cordial thanks of the Officers and Trustees of the Academy.

PUBLICATIONS

The year 1941 came to its close with the Academy prepared, as it was in 1917-18, to devote the pages of the POLITICAL SCIENCE QUARTERLY and the PROCEEDINGS to a consideration of the insistent problems confronting the American people in a world at war. During the troublous days that lie ahead there

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will be an inspiriting challenge in the standards of publication maintained under similar conditions just a quarter-century ago.

A. General Statistics.

In 1941 the Academy published four regular issues of the QUARTERLY (Volume LVI) and two numbers of the PROCEEDINGS (Volume XIX, No. 2, No. 3). These publications contained 917 pages, as compared with 901 in 1940. The edition of the QUARTERLY, which was 7,800 in December 1940, declined slightly during 1941, from 7,800 in March to 7,400 for December. The edition of the PROCEEDINGS was 8,000 for each of the two numbers issued.

B. Articles in the Political Science Quarterly.

The QUARTERLY contained 22 major articles (as compared with 24 during the preceding year) and reviews of 124 books (six more than in 1940). Of the fourteen contributors of articles, nine were members of the Faculty of Political Science at Columbia or had taken advanced degrees under the supervision of that Faculty. One hundred and eighteen manuscripts were submitted during the year for editorial consideration.

Selections from these manuscripts resulted in special emphasis upon public administration. Woodrow Wilson's classic, "The Study of Administration", which first appeared in the QUARTERLY for June 1887, was reprinted, with a commentary by Lindsay Rogers; other phases of the same subject were presented in Herman Finer's analysis of the British cabinet and the war, Arthur Macmahon's study of the New York City transit system, and Lindsay Rogers' observations on the staffing of Congress. Of special interest to economists were the concluding portions of Carl Shoup's discussion of the taxation of excess profits, Michael Florinsky's essay on labor in Russia, and the correspondence of the late Professor E. R. A. Seligman, competently edited by Joseph Dorfman.

C. The Proceedings.

The second number of Volume XIX of the PROCEEDINGS was devoted to a forum on national defense, with particular refer-

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ence to effective policy based upon the potential of American armed forces and the utilization of productive energies. Hanson W. Baldwin, Edward Mead Earle, Admiral Clark Woodward and Colonel Robert Candee discussed political and military strategy. Production was the theme emphasized by Professor Roswell Magill, Donald R. Richberg, Donald B. Woodward and Professor Sumner Slichter. Economic aspects of the defense problem were presented by Alfred P. Sloan, Jr., of General Motors, and Frank B. Jewett of Bell Telephone Laboratories, while Assistant Secretary of War Robert P. Patterson discussed the military phases. Prophetic in its implications was Thomas W. Lamont's solemn warning to the military leaders of Japan.

"America Faces the Future" was the subject of the May 1941 issue of the PROCEEDINGS. John D. Biggers of the Office of Production Management, General Robert C. Richardson, Jr., George Fielding Eliot and Whitney H. Shepardson emphasized the national effort necessary to convert the United States into an "arsenal of democracy". The nature and the extent of individual and social sacrifices to achieve adequate preparedness were considered by Professor John H. Williams of Harvard, Isador Lubin of OPM, Charles O. Hardy of The Brookings Institution, and Edward S. Cowdrick. The concluding session was a symposium on America's relation to the menace of the Axis Powers in which William S. Knudsen, Leon Fraser and John Cowles participated.

MEMBERSHIP

The membership of the Academy at the end of the calendar year 1941 was 6,644 as compared with a total on January 1, 1941 of 6,911. There is thus a net loss of 267. The first net loss occurred in the year 1932 and was followed by losses in '33 and '34. There were net gains in the years '35, '36 and '37. The net loss in '38 was 228, in '39—287, in '40—165. The largest membership was 7,591 at the end of 1936. The aggregate net loss for the last 5 years is 947.

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The budget provided a $4,500.00 expenditure for membership promotion and the plans called for the mailing of approximately 75,000 invitations, from which we hoped to enroll 900 new members. There were actually enrolled during the year 730 new members, 6 of whom are life members. The present brochure and tested lists were used for the membership campaign work. Of the appropriation $2,900.32 was used and 56,810 invitations were sent. We received the 730 new members above referred to, making the cost per member $3.97. The 730 new members did not cover our losses which were 997, making the net loss for the year 267.

The membership is composed of 6 honorary members, 232 life members, 6,406 annual members. Of the 6,406 annual members, 1,305 are subscribing members, consisting of libraries and organizations. The individual membership in the United States and its possessions is 5,051, of whom 2,287 reside in the State of New York; but every state is represented, and also Alaska, the Canal Zone, the District of Columbia, Hawaii, Philippine Islands and Puerto Rico. The total foreign membership is 557 which is distributed over 65 foreign countries.

Resignations numbered 524. We lost by death 85; 388 were dropped for non-payment of dues.

FINANCE

The Treasurer's Report for the year 1941 has been audited and found correct by Price, Waterhouse and Company, public accountants. The chief items of income and expenditures may be summarized as follows:

Receipts

Annual Dues		$30,114.20
Life Membership Dues		900.00
Interest from Investments		2,074.15
Sale of Publications		1,530.47
Contributions		233.00
		$34,851.82
Invested Life Membership Fees (per contra)	$1,030.00	
Meetings (per contra)	9,298.88	10,328.88
		$45,180.70

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Disbursements

Salaries		$13,273.78
Office Expenses		2,224.34
Political Science Quarterly		11,934.90
Proceedings		3,373.11
Invested Life Membership Fees		557.50
Membership Promotion		2,900.32
Meetings, Net Cost		66.90
		$34,330.85
Invested Life Membership Fees (per contra) ...	$1,030.00	
Meetings (per contra)	9,298.88	10,328.88
		$44,659.73

The Work of the Staff

I am pleased to record the appreciation of the Officers and Trustees of the Academy for the excellent and loyal service of the members of the staff.

Election of Officers and Directors

The officers of the Academy for the year 1941, elected in accordance with the Provisions of the By-Laws by the Board of Directors at the first meeting following the Annual Meeting of the Corporation on January 20, 1941, were as follows:

President, Wesley C. Mitchell

Vice-Presidents, Lewis W. Douglas and Roswell C. McCrea

Secretary, Noel T. Dowling

Treasurer, Sam A. Lewisohn

Assistant Treasurer and Director, Ethel Warner

Editor of the Political Science Quarterly and the Proceedings, John A. Krout

The following were re-elected Directors at the Annual Meeting of the Corporation on January 20, 1941 for a term of three years ending December 31, 1943: Messrs. Thomas W. Lamont, Sam A. Lewisohn, Wesley C. Mitchell, Shepard Morgan, William L. Ransom, and Sir Walter T. Layton.

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The terms of the following Directors expired on December 31, 1941 and their successors should be chosen at this Annual Meeting of the Corporation: Messrs. Noel T. Dowling, Leon Fraser, Samuel McCune Lindsay, Thomas I. Parkinson, Owen D. Young, and Miss Ethel Warner.

WESLEY C. MITCHELL
President

January 19, 1942

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THE "NATIONAL REVOLUTION" IN FRANCE

IF one is able to escape the atmosphere of unreality that surrounds all the steps taken by the Vichy government, if one decides to ignore the constant interference of German officials in its work, it may be worth while to consider in detail the reforms embodied in the so-called French "National Revolution". Not much information concerning them, and still less concerning the attitude of the French public toward them, is reaching foreign countries. Even when the legal texts are available, one is often left to wonder how far the changes outlined on paper are in fact taking place. There are repetitions clearly indicating that definite reforms, which already should have become effective, have not yet come into force; and the blunt recognition by Marshal Pétain, after eighteen months in power, that his work is still hampered by much resistance serves as a useful reminder that promise is not performance.[1]

The object of this essay is not to discover the forces operating behind the scenes or to define the aims of the reformers. They are undertaking to evolve a different form of fascism. At the same time the history of the Vichy government may be considered as an attempt made by conservatives to reëstablish an old social order. Critics, who for years had been shaking their heads in disapproval and foretelling disaster, have been given unexpectedly the means to show what they are able to accomplish; and it is of interest to see the results.

But in a brief survey of the work accomplished at Vichy we must call attention first to the changes that are likely to last, because they are well adapted to the present conditions of French society and of French life. The liberation of France, following a German defeat, would not necessarily cancel all

[1] The writer was able to witness the first stage of the "revolution", because he remained in France for nine months after the armistice of 1940.

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the efforts now being made and, perhaps, some of them may help to build up the country's future régime.

Constitutional Reforms

One cannot expect to find much of lasting value in the system of dictatorship established in July 1940, after both houses of Parliament, meeting in a joint National Assembly, had given Marshal Pétain full powers to promulgate a new constitution. The overwhelming majority of Frenchmen were not prepared to accept a dictatorship as a permanent and normal régime. Parliament stated that the constitution would be "applied" by the assemblies formed under the new régime,[2] and one of the constitutional acts signed by Pétain stipulated that, until the meeting of such assemblies, Parliament, although at the moment adjourned, would remain in existence.[3] Meanwhile Pétain, who was in control of the executive, had authority to legislate; and he even declared himself entitled, in case of emergency, to continue to exercise the legislative power after the new constitution would have come into force.[4]

It was of course impossible to draft immediately the constitutional texts. No mention was made of the problem until January 1941, when the Marshal suddenly decided to appoint a National Council as a body of advisers qualified to represent the main economic and social interests of the country. The part ascribed to the Council was strictly limited[5] and, on second thought, Pétain resolved that it should not meet in plenary session. Committees would be formed from its ranks and instructed to report on problems submitted to their consideration. A first committee was created on March 27 to deal with problems of professional organization. A second fol-

[2] Resolution voted by the National Assembly on 10 July 1940: "La Constitution . . . sera ratifiée par la Nation et appliquée par les Assemblées qu'elle aura créés."

[3] Constitutional Act No. 3 (12 July 1940).

[4] Constitutional Act No. 2 (12 July 1940).

[5] Law of 22 January 1941, Art. 7: "Le Conseil National est appelé à donner son avis sur les matières que le Chef de l'Etat présente à son examen."

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lowed to study regionalism. A third in June was concerned with municipal government. Only on July 8 was a committee to draft the new constitution called into existence. The story already reveals from what angle the constitutional problem was approached. No report has yet been published; but the speech delivered by Pétain at the opening of the first meeting throws some light on the future régime that France would have to accept. The Marshal declared himself opposed to universal suffrage and the parliamentary system; he denied that the country's will could be properly expressed by the vote of individual citizens. France to him consists, not of individuals, but of families, of professional, local, spiritual and moral groups. They must have enough independence to live and to face their own responsibilities. But they must be combined and organized to form a hierarchy under an efficient leadership.[6] The Marshal has repeatedly stated: "L'Etat issu de la Révolution Nationale devrait être autoritaire et hiérarchique." Authority, he explained, is founded on the growth of the "national" groups existing in the country and on the tradition that links its future to its past. The principles thus outlined clearly lead to a dictatorship, and the chairman of the Constitutional Committee, Mr. Barthélemy, a professor of constitutional law in the University of Paris and an old liberal, now declares that political institutions need not be founded on liberty. The restoration of liberty will be the final stage reached—the "luxury" enjoyed—when order and peace have been reëstablished.[7] Pétain makes only one passing reference

[6] Pétain's speech of 8 July 1941: "Un peuple est une hiérarchie de familles, de professions, de communes, de responsabilités administratives, de familles spirituelles, articulées et fédérées pour former une patrie animée d'un mouvement, d'une âme, d'un idéal, moteurs de l'avenir pour produire à tous les échelons une hiérarchie d'hommes qui se sélectionnent par les services rendus à la communauté, dont un petit nombre conseillent, quelques uns commandent, et, au sommet, un chef qui gouverne. La solution consiste à rétablir le citoyen, juché sur ses droits, dans la réalité familiale, professionelle, communale, provinciale et nationale."

[7] Interview published by Gringoire (quoted in *Le Temps*, 2 August 1941): "La liberté n'est pas le fondement des institutions; elle peut en être, après la tempête, une fois le beau temps revenu, le couronnement et le luxe."

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to "external conditions" that prevent the country from making a free decision.[8] He obviously believes in the permanent value of an authoritarian régime.

Even the main features of that régime have not yet been revealed. The Vichy committee seems inclined to borrow one of Maurras' suggestions by allowing citizens to take an active part in the local life of the small community to which they belong, while keeping national policy out of their reach. It also appears willing to use one of the devices invented in the days of Napoleon, permitting citizens to nominate candidates, but giving to the central government the power to appoint all officials out of very long lists of names.[9] Such points, however, have at present no real importance. The aim of the Vichy government is to organize, in the words of Pétain, "the social structure on which our political building can be founded", meanwhile increasing by all means its own power.

The French dictatorship, which has been constantly strengthened since July 1940, had taken what may be regarded for the present as its final form in the summer of 1941, when public discontent was for the first time expressed by acts of violence.

The censorship imposed on the press by a Commissariat of Information has been recently extended to foreign papers entering the country, an important provision because the population of unoccupied France had been able to obtain much information out of the dailies published in Switzerland. At the same time the listening to foreign stations on the radio, which had been forbidden only *in public*, has now been prohibited also *in the home*. The producing of films is now made the monopoly of a single company under official control. No public meeting can afford to express open criticism, and a law of 18 July 1941 declares that for all meetings, except for the gatherings in the churches, previous notice must be given and permission obtained.

[8] "Le meilleur régime sera celui qui correspondra aux exigences précises et concrètes de sa vie nationale [of the people] dans des conjonctures extérieures dont il n'est pas le maître et dont il devra tenir compte pour rétablir l'ordre dans sa maison."

[9] *New York Times*, 6 September 1941.

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Frenchmen can no longer rely on any legal protection against arbitrary arrest and detention in concentration camps. They are liable to be prosecuted before newly created courts, to deal with agitators whom the government is anxious to describe as Communists.[10] But other innovations, more disquieting because they cannot be regarded as emergency measures, are the acceptance of the principle of retroactivity which had never been introduced in the penal law,[11] and the limitation imposed on juries which, according to a law now in the making, will no longer be protected by secrecy but will have to reach their verdicts in the presence of the bench.[12]

A dictatorship depends largely on an efficient police. In the days of the Third Republic most of the police forces were in the hands of municipal authorities. In 1940 they were placed under the orders of the prefects, and in July 1941 they were reorganized with newly appointed *intendants de police* in command in each of the new administrative *régions*. At the first gathering of the *intendants* on 14 August 1941, the Minister of the Interior defined their duties as being not only administrative but also political. In order to insure "a total unanimity" of the whole country, he declared, all public servants must become "militants and ardent propagandists".[13] Policemen are trained at a new "National School" opened near Lyons on 12 August 1941. They are given much the same importance as in the other totalitarian states.

But even a dictator needs the active support of at least part of the country under his rule and for that purpose the single party system was invented. On 24 January 1941, Pétain unexpectedly appointed a *Comité du rassemblement pour la Révolution Nationale* of some fifty members with his own private

[10] Laws of 14 August and 7 September 1941.

[11] See for instance Constitutional Act No. 7 (27 January 1941).

[12] *New York Times*, 23 November 1941.

[13] Speech by Mr. Pucheu on 14 August 1941: "Dans un Etat qui doit assurer une unanimité totale, il est nécessaire que les fonctionnaires soient à la fois des *militants* et d'*ardents propagandistes*. Il faut que la police que vous réorganisez en ce moment soit dans cet état d'esprit."

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secretary acting as general secretary of the new group. It was instructed to organize local branches composed of active supporters of the Marshal's policy.[14] A similar and rival committee, however, appeared the next day in Paris and the quick action taken by the Marshal may have been but a tactical move to counteract the efforts of Mr. Laval to spread discontent. Anyhow nothing more was heard of the Vichy committee, while the one in Paris turned out to be only an instrument for German propaganda.

The attempt made to rally the ex-soldiers in support of the National Revolution is far more significant. Those of the last war had formed several unions which played not an unimportant part in the life of the Third Republic. In August 1940 the unions were all merged into a single *Légion* and their elected leaders were replaced by the government's nominees. The members reluctantly had to admit within their ranks the soldiers of the present war and, during the many visits paid by Pétain to the main towns of unoccupied France, they had to take in his presence an oath of fidelity to the new order.[15]

The *Légion* would serve to restore the moral unity of the country and to provide a link between the government and the people. But it was also given subsequently an active part to play in the organization of the totalitarian régime. Two general "orders" issued by the Marshal and by Admiral Darlan instructed the *légionnaires* to report on any case of resistance to the government's policy that might come to their knowledge.[16] After the remodeling of the French dictatorship which took place in August 1941 the Marshal, in an address to the *légionnaires*, clearly defined the part ascribed to them under the new order. It reminds us of the activities of the Jacobin societies at the time of the French Revolution, but it still more

[14] Decree of 29 January 1941.

[15] Law of 29 August 1940.

[16] The *Instruction du 26 Février 1941* declares that the *Légion* is "localement la lumière et l'aide du gouvernement." The *Instruction du 30 Avril 1941* states: "C'est le devoir des présidents des sections locales et des délégués d'informer les maires et les préfets de tout mouvement dirigé contre la doctrine et les ordres du Chef de l'Etat."

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resembles those of the Fascist and Nazi parties. The French dictatorship, imposed on the country by surprise in the days of an appalling disaster, comes into line with the régimes established in the totalitarian states. The pretense made of restoring old national traditions has resulted in the foundation of political institutions that in no way correspond to the habits or the desires of the French people, and Vichy has not so far made any striking contribution to the science of government.

Administrative Reforms

The administrative reforms launched at Vichy may have a better chance of success, because they are not designed merely to serve the interests and to strengthen the powers of a dictatorship. They should also increase the efficiency of the public services and adapt the traditions of a centralized bureaucracy to local conditions and to the social structure of the country.

As regards the organization of the central services, however, Vichy so far has been obviously muddling through. The frequent changes in the personnel and the constant reshuffling of the ministerial departments have produced more uncertainty and more instability than existed under the Third Republic. The present result is a confusing list of high officials—ministers, secretaries of state and high commissaries—whose precise duties and mutual relationships are difficult to define.[17] With the ever-increasing number of ministerial offices an attempt is made to introduce a distinction between the ministers of senior and junior ranks on the model of the British Cabinet. But one may remember that the Blum Cabinet in 1936 had already made a similar experiment; and there is nothing rational in the way in which Vichy has chosen its "superministers".[18]

On the other hand the internal organization of the ministerial departments has been distinctly improved, although the

[17] Even the official weekly *Bulletin d'Information Générale* (11 August 1941) has been unable to do it and it appears that many officials in Vichy do not know exactly where they stand.

[18] For instance the Colonial Office has been linked with the ministries dealing with National Defense; the Ministry of Labor with the economic departments; National Education has been placed under the Minister of the Interior.

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obligation of dividing work between Vichy and Paris was extremely embarrassing. Before the war the ministerial services were insufficiently coördinated because the only link between the various groups of offices was provided by the ministerial cabinet, that is, the body of private secretaries attached to each of the ministers. Vichy has created "*secrétaires généraux*" to act the part of permanent undersecretaries,[19] and, on the other side, the ministerial cabinets have been reformed by limiting the number of private secretaries and by making it an obligation to appoint them from the ranks of trained civil servants.[20]

Drastic changes have been introduced in local government. The citizens no longer have any elected representative to control the work of officials. The local administrative councils, that existed in the *départements* and the *arrondissements*, were first adjourned and finally suppressed. In their place small committees of eight or nine appointed members have been made available for consultation in each *département*.[21] The local services no longer form a body distinct from the national services, and their members have their salaries paid out of the national budget.[22] The prefects, however, are entitled to act as the only representatives of the Chief of State, in command of all local officials.[23]

Under the new system of municipal government, outlined in November 1940, the smaller communes, i.e., the villages, preserved their elected municipal councils, with mayors chosen by the councilors, while the mayors and the councilors in the towns henceforth will be appointed by the central government. Thus Vichy wisely refrained from introducing any sudden change in the communal life of the rural districts. It did not expect to encounter any serious resistance in the villages. Only

[19] Law of 15 July 1940.

[20] Law of 12 July 1940.

[21] Decrees of December 1940 and law of 30 May 1941.

[22] Law of 2 November 1940.

[23] Laws of 29 July and 30 October 1940.

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in towns could a system of free government become really dangerous. It aimed therefore at favoring the peasants by granting them a privilege which the town-dwellers will no longer possess.[24]

The mayors, who were unable to cope with the ever-increasing number of duties which Parliament had in recent years imposed on them, will henceforth be entitled to a salary; and they will be assisted by secretaries who have completed a definite course of professional training. The committee now preparing the municipal reform also contemplates the shifting of certain municipal services to larger areas such as the *cantons*. On the whole the reform may lead to an improvement of local government in the rural districts.

At the same time self-government in the urban districts has been entirely suppressed, and Vichy apparently finds some justification for this drastic decision in the fact that the conduct of municipal affairs in the provincial towns had been for many years open to much criticism. Corruption was here more prevalent and more harmful than in Parliament. Indeed the central government had found it necessary to assume control over the police forces in important towns, such as Marseilles, where the mayors were no longer maintaining order. Although some of the largest centers were enjoying a surprising administrative stability, with the same mayor remaining in office for many years, this was mainly a result of the widespread political and parliamentary influence that such mayors were able to exercise. Public opinion is likely to welcome a change that will prevent the politicians from building up electoral strongholds and from taking control over local affairs. But Vichy is also convinced that, because Frenchmen have been used to a centralized administration, they will not much resent being deprived of their local liberties; and it may be very much mistaken. Neither do the small communes seem to be satisfied

[24] Law of 17 November 1940: "Dans un temps où il importe plus que jamais de retenir au sol l'habitant des campagnes, il ne convenait pas de changer ses habitudes, et il fallait lui laisser une participation active à l'administration de ce terroir qui a été le plus souvent celui de ses ancêtres."

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with the new régime. At any rate Vichy has been compelled for many months to dismiss a large number of mayors and to dissolve numerous municipal councils in order to crush opposition and to silence criticism.

Another striking experiment has been the initiation of a comprehensive scheme of regionalism. Here again Vichy is apparently answering a perennial demand by competent and disinterested reformers. In one of his first speeches Pétain pledged himself to organize large administrative regions similar to the provinces that existed before 1789.[25] But he found it difficult to make rapid progress. Perhaps he was afraid of playing into the hands of the Germans, who are ready to take advantage of any weakening of the country's unity. He may have realized also that, while the conservatives are asking for a restoration of the old French provinces, it is by no means easy to dispense with the administrative areas that have been in existence for the last one hundred and fifty years. Professor Barthélemy, one of the Marshal's principal advisers, openly supported the case of the *départements*.

Nevertheless the way has been opened for the introduction of regionalism. First the government, when dealing with the reorganization of industry, created in January 1941 fourteen industrial regions. Next the lack of food and of raw materials led neighboring districts to pool their resources and to adopt a common policy of supply. Informal meetings held by groups of prefects were followed in April by the appointment of *préfets régionaux*. The prefects residing in the main provincial towns were raised to a superior rank and were given power of supervision over neighboring *départements*.[26] The limits of those new administrative areas were immediately traced in unoccupied France. With the approval of Germany similar

[25] "Des gouverneurs seront placés à la tête des grandes provinces françaises. Ainsi l'administration sera à la fois concentrée et décentralisée. Les fonctionnaires . . . seront plus libres; ils agiront plus vite, mais seront responsables de leurs fautes."

[26] Laws of 19 April and 25 August 1941.

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regions were established in the occupied zone and, finally, in the so-called "prohibited" zone of Northeastern France.[27] The regional prefect will be assisted on the one hand by an *intendant de police*, and on the other hand by an *intendant des affaires économiques;* he will also rely on an assistant (*préfet délégué*) to direct the administrative services of his own *département*.[28]

But the preceding steps were more in the way of emergency measures, and the drafting of a permanent system of regionalism was referred to a special committee of the National Council that assembled in August. Pétain outlined to its members his plan. He stated that the *départements* must be preserved and that he expected the governors in charge of the wider regions "to govern" rather than to interfere in the details of administrative work. They would be assisted only by a few collaborators, and a special Council of appointed members would be given advisory powers.

Few Frenchmen are aware of the progress already made by what is sometimes called "spontaneous regionalism". Numerous important branches of the administrative system have been allowed to work within areas much wider than the *départements*. But their frontiers are overlapping and the Third Republic had not succeeded in producing a comprehensive plan of regionalism.

The Vichy government would render another and a greater service if the *fonctionnaires* were subjected to a stricter discipline and if they were henceforth held responsible for their decisions. The trade unions, which they formed in defiance of ministerial orders, have now been suppressed. Ministers are no longer afraid of dismissing civil servants with whom they are not satisfied, and promotions, which were chiefly granted to seniority, are more often rewarding valuable services. Yet there is no sign that civil servants are more inclined to act on their

[27] Law of 19 April 1941 relating to the unoccupied zone. Decrees of 20 June 1941 concerning the occupied zone. Decrees of 26 August and 9 September 1941 concerning the prohibited zone.

[28] Laws of 18 July and 11 August 1941.

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own responsibility. On the contrary the arbitrary rule under which they serve makes them more reluctant to take any risk. The Marshal is obviously anxious not to increase the number of bureaucrats, and to correct the harmful effects of the bureaucratic routine. But Frenchmen do not feel that any real improvement has so far taken place.[29] They also fear that Germany will reap the advantages of all the reforms undertaken. The recent appointment of German consuls settling down in the main towns of unoccupied France makes them very suspicious. Although they have not been told of an agreement which submits French commercial policy to German control,[30] they wonder whether the consuls will not supervise the work of the *préfets régionaux* much in the same way as French officials had been taking charge of the administrative services in the French African protectorates.

Economic and Social Reforms

Important changes are contemplated in the economic and social life of France. The achievements of Vichy are not easy to estimate; but, assuming that German interference will produce neither economic breakdown nor social upheaval, the swift action of high officials and the strenuous efforts of the French people may have useful results.

No time was lost in undertaking the work of reconstruction. The government approached the housing problem with a determination to avoid the mistakes committed after World War I. It is not again assuming the whole cost of reconstruction, but only contributing an important part of the necessary expenditure and granting large facilities of credit.[31] Moreover, Vichy has adopted a huge plan of public works intended

[29] *Le Temps* writes (22 July 1941): "Il est impossible de prendre une décision sans mettre en mouvement toute une série de rouages. Une foule d'administrations nouvelles et distinctes, créées par l'Etat tout puissant se superposent ainsi aux anciennes autorités administratives et gouvernementales qui subsistent."

[30] The text was printed in *Free World* (November 1941).

[31] Laws of 11 October 1940 and 12 July 1941.

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to reduce unemployment and to increase the producing capacity of the country.

At the time of the armistice free enterprise was clearly unable to meet the stupendous situation produced by the sudden stoppage of factories working on armaments, the disorderly migration of workers to Southern France, and the terrible shortage of raw materials. Accordingly committees of economic organization were formed for the main industries. Their members were to serve as advisers to a state director who alone had power to act. Each committee first made a survey of existing means of production and drew a program of work. It had to state the amount of raw material required and the prices that would enable industrialists to carry on.[32] But the government maintained a strict control over prices which, as a general rule, were not to exceed the standard reached at the beginning of the war. At the same time a central office for the distribution of industrial products, with "sections" corresponding to the various branches of industry, was comparing the demands of the committees with information as to the needs of consumers provided by the local authorities. It alone was entitled to make the necessary allotments of raw materials.[33]

Vichy thus succeeded in keeping French industry alive while unemployment was much reduced. According to the *Bulletin de la Statistique Générale* the total number of unemployed, which, for the first time in the history of France, reached one million in the summer of 1940, fell to 700,000 in January and to 310,000 in July 1941. But Marshal Pétain, on August 12, complained that "the power of trusts is trying to reassert itself, using for its own ends the institution of committees of economic reorganization. . . . These provisional bodies, created under the sway of a pressing need, have been too numerous, too centralized and too unwieldy. The big corporations assumed too much authority and often inadmissible control."

[32] Law of 16 August 1940.

[33] Law of 10 September 1940.

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The Marshal was eager to protect the small firms against the competition of the great employers. Along with the National Confederation of Workers (C.G.T.), the main unions of employers—the National Confederation of Employers, the *Comité des Forges* and the *Comité des Houillères*—had been dissolved.

Representatives of the workers and of the artisans were to serve on the committees together with the industrialists. But, although statistics tend to prove that the big concerns have not been given large numbers of seats on the economic committees,[84] the supporters they have in the ministerial offices at Vichy have secured in the committees a dominating influence. Thus the Marshal has so far failed to forward his own policy.

The economic committees may nevertheless play an important part in the framing of a future régime, more or less inclined toward socialism. Free enterprise cannot be expected to recover all the ground it has lost during the war, and the committees may later on serve the views of future statesmen, who are likely to favor extensive nationalization with certain forms of corporatism.

The Vichy government is endeavoring by various means to increase the relative value of agriculture. Owing to the lack of foodstuffs the work of the peasantry has become of supreme importance. Assistance given to the farmers is in accord with the conservative policy that inspires the National Revolution. Unfortunately it also serves the Germans, planning a new European order.

As regards the reparation of war damages, farmers were immediately offered means to borrow, on very favorable terms, the capital needed to compensate losses in crops or livestock that would have reduced their production, while large credits

[84] *Le Figaro* (9 August 1941), reproduced in *France Libre* (October 1941). See also the declarations of Mr. Pucheu, Minister of the Interior in *Le Temps* (April 11). But Mr. Pucheu, who is an important member of the steel industry, may have been only paying lip service to the principles outlined by Pétain.

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were made available to the farmers' unions and coöperatives.[35] The fields which had been deserted by their owners were let without rent for three years and with rent reduced to half the normal local standard for another six years.[36] In October 1940 the government financed a large program of public works, including plans for the electrification, irrigation or drainage of many rural districts.

French agriculture in pre-war days suffered chiefly from a declining natality in rural districts and from the migration of peasants to the towns. But numerous steps calculated to produce an increase in the birth rate had been codified on the eve of the war in a "Family Code" that came into force in the summer of 1940. The new government was thus called to apply a comprehensive program including special grants to families on the birth of the first child and special loans to young married couples settling down on a farm. But Vichy took other steps that, under the Third Republic, would have been regarded as antidemocratic. Death duties in the case of large families were much reduced. The young peasants were induced to stay on their farm, working with their parents, by an ingenious device that entitled them later on to claim a larger part of their parents' inheritance as a compensation for the wages they would have earned if they had been working elsewhere.[37] At the same time small grants were allotted to peasants who would give one year of training to young apprentices. In that way, and by various other means, it is hoped that the rapid decline in the number of rural artisans in the French villages will no longer continue.

Vichy is endeavoring not only to make agriculture more active and prosperous, but also to prepare its reorganization on corporative lines. The individualistic tradition of the peasantry no longer corresponds to the modern conditions of production, and numerous unions had been formed by farmers

[35] Laws of 28 July, 31 July, and 5 August 1940.

[36] Law of 27 August 1940.

[37] Law of 20 July 1940.

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and agricultural workers under the Third Republic. But they remained too much under the influence of political parties, which were all taking advantage of the discontent spreading among the farmers in the years of the world depression to compete for their vote. Under the scheme outlined in December 1940 each agricultural district, consisting of one commune or of several neighboring communes, will have one single trade union to which owners, farmers as well as daily workers will be admitted. Their elected chairmen (*syndics*) will form a regional trade union in each *département* and, in the same way, a National Council of Agriculture will be founded. The so-called "specialized" unions, such as the *Association des producteurs de blé* and the *Confédération Générale des Vignerons*, will be given the special task of maintaining proper relations between the different branches of agriculture. The Chambers of Agriculture, that were created after World War I, will become bodies of experts responsible for the introduction of new devices. But all coöperatives, all societies for mutual help, and all funds for insurance or credit will be made dependent on the trade unions, whose members alone will be admitted to such advantages.[38]

The government has already organized under state control several branches of agriculture, making it compulsory for all producers to join one single union and to comply with its rules.[39] Although these reforms are above all intended to augment output in a period of increasing scarcity, they may also serve as steppingstones on the way leading to the establishment of corporatism in agriculture.

The labor policy of the new régime has two main objectives. The industrial workers are to preserve all the advantages they obtained under the Third Republic, but the relations of em-

[38] Law of 2 December 1940 with the declarations made by the Minister of Agriculture on 14 December 1940 and 21 January 1941.

[39] Law of 27 July 1940 (*Organisation de la production laitière*). Law of 18 September 1940 (*Organisation de la production forestière*). Law of January 1941 (*Organisation de la production huilière*). Law of 7 August 1941 (*Organisation de la production sucrière*).

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ployers and employees are defined by a so-called Labor Charter, which proposes to reconcile capital and labor with newly created corporations to replace free trade unionism.

Only minor alterations have been made in the system of national insurance that had gradually come into effect after 1931, and these are all for the benefit of the insured workers.[40] It now includes allowances given to unemployed, who, before the war, were left in charge of the local authorities. All those who are genuinely seeking work by applying to a labor exchange are entitled to support, and even the partially unemployed will be assisted for the period of the working week during which they are not earning wages.[41]

Family allowances, which by 1932 had become a national undertaking, are preserved, and the rates, depending on the number of children, have been increased.[42] A law of 14 March 1941 grants old age pensions to workers above 65 years of age, and a special allowance called "salaire unique" goes to the worker whose wife is not contributing to the earnings of the family.

The famous social reforms imposed on the country by the Popular Front in 1936 have not been repealed. Even the forty hours' rule has not been openly suppressed. But the Ministry of Labor, whenever necessary, extends the number of working hours to 54. Overtime work is paid at higher rates only above 48 hours.[43] In 1941 workers again had paid holidays, and all the collective agreements in existence have remained in force.[44]

Let us, nevertheless, remember that the life of the industrial workers has by no means remained as it was before 1940. Not only have economic conditions reduced many workers to partial unemployment; but the monetary situation and the need to avoid at all costs a disastrous inflation have compelled Vichy

[40] Law of 14 March 1941. Decrees of 28 and 30 May 1941.

[41] Law of 11 October 1940. Decrees of 8 January and 10 June 1941.

[42] Law of 15 February 1941.

[43] Laws of 23 August 1940 and 25 March 1941.

[44] Law of 12 April 1941.

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to oppose any substantial increase in wages. It has only accepted reluctantly a small increase in the lower wages and the salaries of civil servants.[45] But, although official statistics do not provide reliable data on the evolution of prices, it is clear that a sharp rise in the cost of living has been taking place. Therefore the social policy pursued at Vichy is to a large extent an artificial process.

At the same time trade unionism, as a free labor movement, has been destroyed. In the autumn of 1940 the government dissolved the two organizations that aimed at representing, on a national basis, the workers of all trades: the National Confederation of Workers (C. G. T.) and the Confederation of Christian Workers. The local trade unions, the national federations that existed for each trade, and the *Unions départementales* (intertrade organizations similar to the British trade councils) have been allowed to survive; but they can concern themselves only with the professional interests of their members, and their leaders, under strict supervision, cannot express any criticism openly.

Meanwhile a committee of the National Council, formed in March, prepared a Labor Charter which was published in October. In each district the employers, the workers and the technicians will form separately one single union for each trade. Membership is not made compulsory, but all are expected to join and none can be prevented from joining the union. While members will later on elect their leaders, these will at first be appointed by the government. Regional unions are to be created in the same way and some ten large groups of trades or industries will be defined in order that ten national unions may be founded. All unions are forbidden any political or religious activity. On the other hand their professional activities are much curtailed by the simultaneous creation of so-called "mixed committees".

Provision is made for local and regional committees and one national committee. Here representatives of the employers,

[45] Law of 23 May 1941.

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workers and technicians will meet under the supervision of a state official, whose powers are not yet clearly stated. They will fix the rates of wages according to what they regarded as a minimum standard of living with additional payments to skilled workers. They will conclude contracts, settle the number of working hours and the conditions required for health and social security. They will even deal with employment and dismissal. Last, but not least, they will arbitrate all professional conflicts. "The lock-out and the strike will remain prohibited" (art. 5), and the government intends "breaking completely with the old system of class struggle".

Vichy is indeed contemplating far-reaching changes. But all the information so far available indicates that the country is not sharing its hopes.[46] Only a very small group of trade unionists follows Mr. Belin who was led by his aversion to the Communists to join the government and accept the Ministry of Labor. From this group alone were members admitted to the committee which drafted the new Charter. The overwhelming majority of the working class remains hostile. Police supervision did not prevent its leaders from entering the strongest protests in November 1940, and again in June 1941. Only nine out of the eighty *Unions départementales* pronounced in favor of the Labor Charter, while numerous trade unions expressed their disapproval. The Christian Workers are in full agreement with the main body of French trade unionism, and the leaders of the two Confederations (the National and the Christian), who, in pre-war days, were engaged in a bitter strife, are now joining hands. French workers are not contented with the prospect of having separate unions confined to the limits of each trade. They want inter-trade organizations to express the solidarity of the whole working class. Above all they believe in a free syndicalism reconstructed by an independent labor movement. They are not opposed to mixed committees to reconcile the conflicting interests of employers and employees, but freely elected delegates

[46] See the interesting new weekly, *France Speaks* (22 and 29 December 1941), and *France Libre* (October 1941).

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on both sides can alone be expected to bring about such a reconciliation. With the representatives of the big concerns and of the moneyed interests in command of most of the key positions in the government, seeking by dictatorial methods protection against the growing danger of social unrest, no weakening of the class feeling can be expected.

An Appraisal

While the present conditions in France remain very confusing, the main characteristics of the National Revolution are already becoming fairly apparent. It tends to establish a dictatorship freed from any parliamentary control and in command of a powerful administrative system. Individual citizens are given no place in such a régime, but social groups are permitted to tender advice and to look after their own professional interests.

The new constitution, however, has not yet been outlined, and Pétain, in the speech he made on January 1, 1942, admits that it could be promulgated only after "the liberation of the national territory". Moreover it should be preceded by other reforms: the administrative reforms in process of realization and the creation of corporations, which has not yet taken place. Corporatism should be constructed by the combined efforts of the committees of economic organization, the agricultural unions and the mixed committees. But only the first ones at present exist and their past record does not entitle them to become a permanent feature of the new régime.[47]

Under the new social order that Marshal Pétain is anxious to establish, the peasantry on the one side and, on the other, the artisans and the small employers are expected to play a leading part. But he is confronted by the resistance and the ambitions of large business concerns which he is not able to

[47] Vichy has indeed reorganized the groups known in the English language as "professions". Architects, barristers, doctors, notaries and finally bankers have been given charters, and find their activities subjected to definite rules. The achievement, however useful it may be, does not make it any more likely that corporatism on a wider scale will soon follow.

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master. While his government has now become a fully equipped dictatorship, its powers are limited by the inevitable pressure of economic laws, which it cannot afford to ignore, and by the growing hostility of Frenchmen who are not prepared to give up their liberties. "After all", declared Pétain on January 1, 1942, "this revolution to be national should be the work of the nation." But, public opinion has not shown the "sincere spiritual compliance" and the "pondered acceptance of sacrifice" which alone could enable him to succeed. Finally the Vichy experiment remains entirely dependent on the future of Germany and on the ultimate turn of the war.

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THE MEXICAN OIL INDUSTRY SINCE EXPROPRIATION I

THE agreement of November 19, 1941 between Mexico and the United States marked a semi-final step in a still unsettled issue and gives fresh reason for a review of the Mexican oil industry since its nationalization. The situation has interest for more than its immediate and important bearing on political and military collaboration with Mexico and within the hemisphere generally. The case of Mexico's oil involves long-range questions about the rôle of governments in the provision of capital for developing natural resources in the face of fused sentiments of nationalism and class liberation. Administratively, too, its story throws significant light on the relation of organized labor to processes of socialization.

Nationalization

Mexico's oil production, after the expropriation of the foreign companies on March 18, 1938, was 38,467,000 barrels in 1938, 42,890,000 in 1939, 42,517,172 in 1940, and 20,068,231 in the first six months of 1941.[1] These quantities placed Mexico seventh among the producing countries of the world. In 1937, on the eve of expropriation, Mexico's output of 46,805,000 barrels amounted to 2.5 per cent of the world supply.[2]

[1] The figures in the text are those given by President Avila Camacho in his annual message to Congress on September 1, 1941. *El Universal*, September 2, 1941; "Mexican Oil Industry Nearing Critical Situation", *World Petroleum*, November 1941, p. 25. Certain of the figures differ somewhat from those given by the general manager of Mexico's governmental oil enterprise, *Petróleos Mexicanos* (*Pemex*), in reviewing his management on the occasion of the third anniversary of the expropriation decree, March 18, 1941. A translation of his report was given in *International Petroleum Trade*, vol. 10, No. 6, June 30, 1941 (U. S. Department of the Interior, Bureau of Mines). Both sets of figures differ slightly from those presented by Jesús Silva Herzog, *Petróleo Mexicano* (Mexico City, 1941), pp. 209-10. A barrel is equivalent to 42 U. S. gallons.

[2] D. Graham Hutton, "The New-Old Crisis in Mexico", *Foreign Affairs*, July 1938, p. 635.

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There had been a decline from the high point of 1921 when the Mexican yield—following a spectacular rise from the beginnings of commercial production in 1903[3]—held second place with a production of 193,397,587 barrels. The steady decline thereafter, reaching 32,805,496 barrels in 1932, was arrested in that year by the discovery of the rich Poza Rica field. British interests in the Royal Dutch-Shell, possessing this field, controlled 59 per cent of Mexico's production in 1937 and predominated over American interests in the ratio of about five to three.[4]

The legal basis for expropriation was laid in article 27 of the constitution of 1917. It categorically provided for ownership of petroleum resources by the nation, with the general stipulation that "private property shall not be expropriated except for reasons of public utility and by means of indemnification."[5] Article 27 reversed the prescriptions of the mining code of November 22, 1884 and the mineral law of November 25, 1909 which, despite Spanish precedents to the contrary, had vested ownership of underground oil in the surface landholder. But the application of article 27 was softened under foreign pressure. President Carranza allowed the oil companies to proceed as if there had been no change in the law,

[3] As late as the end of the last century many Mexican and foreign experts thought that there was no petroleum in Mexico. From 1901 to 1937 Mexico produced 1,865,609,081 barrels, as accurately as can be calculated in the face of the revolutionary disturbances of 1913-1915. Silva Herzog, *op. cit.*, p. 92. *Cf.* also George W. Stocking, *The Mexican Oil Problem* (Arnold Foundation Studies in Public Affairs, 1938); Jesús Silva Herzog, "Mexico and the Oil Companies", *Annals of Collective Economy*, vol. 15, 1939, p. 59.

[4] *Mexico's Oil: A Compilation of Official Documents in the Conflict of Economic Order in the Petroleum Industry, with an Introduction Summarizing Its Causes and Consequences*, Government of Mexico (Mexico City, 1940), p. 84. *Cf.* Cleona Lewis, *America's Stake in International Investments* (Washington, 1938), pp. 221-22. *Cf.* also Arthur Pound and Samuel Taylor Moore, *They Told Barron* (New York and London, 1930), pp. 140-41; Ludwell Denny, *We Fight for Oil* (New York and London, 1928), chap. iv.

[5] Charles A. Thomson, "The Mexican Oil Dispute", *Foreign Policy Reports*, vol. 14, No. 11, August 15, 1938, p. 122.

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although taxes were increased.[6] President Obregón, seeking recognition by the United States, was willing to make concessions. Mexican and United States commissioners at the Bucareli Conference in 1923 [7] interpreted broadly the opinion of the Mexican Supreme Court [8] that the constitution did not affect retroactively oil rights acquired prior to its adoption, if they had been attended by positive acts looking toward production. Under President Calles in 1925 the owners of oil lands were restricted by a new petroleum law which converted the rights of pre-constitutional titles into "confirmatory" concessions for fifty years.[9] The 1927 compromise agreement engineered by Ambassador Dwight Morrow provided for the issuance of confirmatory concessions without time limitation on lands for which pre-constitutional rights existed.[10] Shibboleths aside, the period was one of relative conservatism in Mexico.[11] Apart from some agrarian measures, there was little of the zest for social reconstruction that was revived and extended after the inauguration of Lázaro Cárdenas on November 30, 1934.

Meanwhile, however, steps had been taken which involved the government administratively in the oil industry and which

[6] Wendell C. Gordon, *The Expropriation of Foreign-Owned Property in Mexico* (New York, 1941), p. 54.

[7] United States State Department, *Proceedings of the United States–Mexican Commission Convened in Mexico City, May 14, 1923* (Washington, 1925); Antonio Gómez Robledo, *The Bucareli Agreements and International Law* (Mexico City, 1940).

[8] In the "Texas Case", 9 *Seminario Judicial de la Federación* 432.

[9] *Diario Oficial*, December 31, 1925. Since the enactment of this law, oil rights in Mexico have been of two kinds: those originally acquired before May 1, 1917 and validated in confirmatory concessions; and rights granted in the first instance by ordinary or post-constitutional concessions. Roscoe B. Gaither, *Expropriation in Mexico* (New York, 1940), p. 4.

[10] On June 30, 1937, petroleum interests were reported to hold 1,504 confirmatory concessions, covering 5,000,000 hectares, and ordinary concessions, covering 1,667,000 hectares. Charles A. Thomson, "Mexico's Challenge to Foreign Capital", *Foreign Policy Reports*, vol. 13, No. 11, August 15, 1937, p. 134, n. 49. Silva Herzog in *Petróleo Mexicano*, p. 94, states that in February 1938, oil concessions of all kinds involved 7,389,551 hectares.

[11] Charles A. Thomson, "Mexico's Social Revolution", *Foreign Policy Reports*, vol. 13, No. 10, August 1, 1937, p. 114.

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looked toward Mexicanization. An agency called *Control de Administración del Petróleo Nacional* was set up in 1925 [12] in one of the ministries with broad powers over the national oil reserves [13] and concessions. A little later, Mexican capital under government control was sought by the creation in 1933 of a mixed company, *Sociedad Petróleos de México, S. A.*, popularly called *Petro-Mex.*[14] Two series of shares were issued: "A" shares, which belonged inalienably to the government and which it paid for by transferring to *Petro-Mex* rights to exploration and exploitation of the unassigned national petroleum reserves; and "B" shares, which could be owned by any Mexican. The government was entitled to elect only three in a board of seven although important contracts required the direct consent of the administration. The scheme was a disappointment. Only 41,393 of the 100,000 "B" shares issued were taken up and a majority of these were held by the national railways and a national credit institution, *Nacional Financiera. Petro-Mex* did not seem the path to Mexicanization. Early in 1937 the mixed company was dissolved. The liquidation of its affairs passed to its successor in the task of oil exploitation on the government-owned reserves, the *Administración General del Petróleo Nacional.*

This latter agency was set up by presidential decree on January 30, 1937;[15] it was intended, in the words of the Finance Minister, "to intensify the carrying out of a coordinated petroleum policy for the good of the Mexican people." Its functions were more entrepreneurial than regulative. The general manager was appointed directly by the President who also sanctioned all important transactions. Financially, the record

[12] *Diario Oficial*, January 8, 1926. Originally oil matters had been handled by a bureau in the national railways administration.

[13] The supervision of the reserves was revised by a decree of September 6, 1926, amending that of December 31, 1925. *Ibid.*, September 24, 1926.

[14] *Ibid.*, January 26, 1934.

[15] *Ibid.*, March 2, 1937.

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of the *Administración General* was relatively favorable,[16] but barely three per cent of Mexico's production was in its hands at the time of expropriation.

The chain of events that led directly to the expropriation of the private elements of the oil industry began in 1936, almost simultaneously with the passage of an act that revised the presidential power to issue expropriating decrees pursuant to the constitution.[17] This legislation broadened the grounds of "public utility" on which property might be taken. But in the case of oil, the swift and sweeping expropriation of 1938 was probably unforeseen and unpremeditated.[18]

When expropriation was decreed on March 18, 1938, it was the climax of a labor dispute involving seventeen companies which refused to acknowledge a labor board's award, sustained by the Supreme Court, which among other conditions required increases of 26,329,393 pesos in wage and welfare benefits.[19] It would be beside the point to retell in detail the pre-expropriation phases of this controversy, although some of the controverted features continue to color, if they do not shape, both

[16] The sales of *Administración General del Petróleo Nacional* amounted to 6,974,020 pesos in 1937, 13,759,025 in 1938, and 20,947,068 in 1939. The net earnings in the three years were, respectively, 1,317,375, 3,809,524, and 3,941,647 pesos, or 6.38 per cent, 18.44 per cent, and 19.09 per cent on the initial capital. The agency profited from the fact that its existence was independent of expropriation and after expropriation it was not only retained but was also favored in the assignment of sales contracts in order to lessen international legal complications. Report (unpublished) of the experts' committee in the "second conflict of economic order" in the oil industry, October 31, 1940, secs. 29-31. *Cf.* Silva Herzog, *Petróleo Mexicano*, pp. 289-90, 294.

[17] *Diario Oficial*, November 25, 1936.

[18] It was logical to assume that the timing practiced by Mexican leadership, relatively militant after 1934, would subordinate other considerations to the pressing financial needs of agrarian reform, including educational and welfare services and utilities.

[19] Workers' University of Mexico, *The Oil Conflict in Mexico* (Mexico City, 1937-38); *The Mexican Oil Strike of 1937*, four volumes, published by the expropriated companies; Thomson, in *Foreign Policy Reports*, vol. 14, No. 11, pp. 124-25. The award is reprinted in translation of *Mexico's Oil*, pp. 697 *et seq.*

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the issue of indemnification and also the labor policy of the nationalized industry. The barest summary will suffice.

An industrial union of petroleum workers (*Sindicato de Trabajadores Petroleros*) was formed in 1936 in affiliation with the newly organized Confederation of Mexican Workers (CTM). Wage rates in the oil fields were relatively high for Mexico; but strains, invidious comparisons between the quarters of foreign and native employees, and a sense of indifference for such factors as health characterized the more or less transitory communities that arose under a new, exigent, exotic and rather unsympathetic industry. On November 3, 1936, the petroleum workers' union submitted demands for a comprehensive labor agreement. Joint conference failing, a strike was called for May 27, 1937. At this stage the companies were willing to make wage increases of 13,000,000 pesos, in addition to some previous advances. At the President's instance, the strike was called off but the union then initiated what Mexican labor law calls a "conflict of economic order". In accordance with the procedure in such a dispute, an expert committee for the government reported on August 3, 1937, with elaborate and critical analyses of company profits and the like. A special group in the labor board accordingly made its award on December 18, stipulating increases of 26,329,393 pesos, further retroactive payments, and a restriction of the number of "confidential employees". On appeal by the companies for an injunction (*amparo*), the Supreme Court, on March 1, 1938, sustained the labor board in all respects. The companies were now willing to agree to wage increases aggregating 26,000,000 pesos but with reservations about the control of personnel and other stipulations that the authorities would not accept. At this stage, according to the government, the companies sought to intimidate Mexico through pressure on the rate of exchange. But in the end, perhaps, it was the way the representatives of the companies expressed doubt in the President's word during the negotiations that was the decisive factor in galvanizing national pride. On March 18 expropriation was ordered.

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The legality of the presidential decree was contested in the courts.[20] On December 2, 1939, the Mexican Supreme Court upheld the seizure of the companies' properties as a lawful expropriation.[21] Basing its opinion in part on the law of capture, the court drew an analogy between the peregrinating nature of oil in its reservoir underground and that of wild animals. The owner of a concession had the right to discover and to produce oil but, because he acquired ownership only of the oil that he produced and had no ownership of what was still underground, his right to produce was of no value. A concession was construed as mere tenancy at will, terminable at any time by the government.[22]

[20] Gaither, *op. cit.*, chap. viii, pp. 142-59; *idem*, "The Mexican Expropriation of Oil Properties", *United States Law Review*, June 1938; Henry P. Crawford, *Expropriation of Petroleum Companies in Mexico*, United States Department of Commerce, Bureau of Foreign and Domestic Commerce, Comparative Law Series, April 1938; Josef L. Kunz, *The Mexican Expropriations* (Contemporary Law Pamphlets, Ser. 5, No. 1, New York University, 1940); Arthur K. Kuhn, "Mexican Supreme Court Decision in Oil Companies Expropriation Cases", *American Journal of International Law*, April 1940; L. H. Woolsey, "The Expropriation of Oil Properties by Mexico", *ibid.*, July 1938. Standard Oil Company (N. J.), *Denials of Justice: A Memorandum on the Decision of the Mexican Supreme Court of December 2, 1939; The Full Text of the Decision* (New York, 1940).

[21] The legal situation from the Mexican side is, for instance, presented in *The True Facts About the Expropriation of the Oil Companies' Properties in Mexico*, Government of Mexico (Mexico City, 1940). The companies' answer is contained in Standard Oil Company (N. J.), *The Reply to Mexico* (New York, 1940).

[22] At the close of January 1942, the administrative section of the Mexican Supreme Court, in a decision favorable to the Sabino Gordo Petroleum Company (a subsidiary of the Cities Service Company), dealt with a situation that antedated and was not connected with the oil expropriation. The attempted cancellation of the "confirmatory concession" involved in the recent case had been ordered in 1936 by the Department of National Economy on the basis of a statement of the Department of Agriculture, which the court has held not to have been conclusive. In the face of much speculation about the possible indirect bearing of the Sabino Gordo case upon pre-constitutional subsoil rights generally, and some wishful thinking reflected in the press of the United States, the Department of National Economy has stated that "the interpretation and scope given by some to the decision of the administrative section of the Supreme Court have been erroneously extended to several points which were not included in the constitutional controversy . . . and, even supposing that the extension of the interpretation and purported scope which has been given to the decision

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Meanwhile, for the management of the complicated industry so suddenly acquired, it had been necessary to invent a form of organization. The preëxisting *Administratión General del Petróleo Nacional*, already described, was temporarily continued as a legal entity. It seemed expedient to keep the government's own earlier holdings and operations separate from the expropriated elements, still in dispute. An agency was improvised for the new task. Its first form was the *Consejo Administrativo del Petróleo*, headed by Finance Minister Eduardo Súarez, with Efraín Buenrostro, Minister of National Economy, second in command. By act of Congress in June 1938, the movable and immovable properties of the expropriated companies passed to a new corporation, *Petróleos Mexicanos* (*Pemex*).[23] The direction was vested in a board of nine, five being government representatives appointed by the federal executive and four being designees of the oil workers' union. At the time of the enactment of the law the functions of the organization could hardly be charted in detail. A presidential order of August 22, 1939 supplemented the statute, although various phases of the respective spheres of management and union remained open and in controversy.

Originally it was intended that *Petróleos Mexicanos* should handle sales as well as production.[24] Subsequently it was found expedient to combine and segregate for a time the sales efforts of the two governmental institutions involved in production, *Administración General del Petróleo Nacional* and *Petróleos Mexicanos*. To this end, as recommended in a presidential message of April 22, 1938, *Distribuidora de Petróleos Mexi-*

of the Supreme Court in the injunction proceeding instituted by the Sabino Gordo Petroleum Corporation were correct, within the technique of the injunction (*amparo*) proceedings the effects of that decision are limited to the specific case which originated the constitutional controversy, and at the utmost it can constitute an isolated precedent which, within the express terms of the 'law of *amparo*', does not vary nor can vary the firm and constant jurisprudence of the Supreme Court of Mexico as regards subsoil rights, in the interpretation of article 27 of the constitution."

[23] *Diario Oficial*, July 20, 1938.

[24] Only for export purposes had the entity *Exportadora del Petróleo Nacional* been set up by presidential decree of March 31, 1938.

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canos was established in June as a unified sales facility.[25] The ideal was an agency of commercial pattern that could act flexibly, swiftly, and with financial leverage. *Distribuidora*, a juristic person, had a capital of 200,000 pesos, furnished in equal parts by the two producing organizations. The corporation acted as their commission agent; it sold their products, deducted expenses and an agreed fee, and remitted the proceeds. Its own funds were subject to the direction of the Treasury Department. An annual budget and balance sheet were prepared and submitted through the treasury to the President.

Distribuidora was managed by a general manager (first, Gustavo Espinosa Mireles, then Jesús Silva Herzog, and after the latter's retirement in August 1940, Manuel Sánchez Cuen). The manager was appointed by the President of the Republic and served as the head of a board of five other members. Three of the five were also appointed by the President — two upon proposal by the Treasury Department and one upon the recommendation by the Department of National Economy; one was designated by the board of *Petróleos Mexicanos;* and one represented the *Administración General del Petróleo Nacional.*

The cumbersome tripartite set-up was increasingly inconvenient. Its supposed transitional utility lessened with the fading of prospects for an early settlement with the expropriated companies. The different origins of the government's titles to ownership of oil properties hardly justified a divided administration. Señor Efraín Buenrostro, in his capacity as chairman of the board of *Petróleos Mexicanos*, advocated a single organization for production, refining and sales. The President approved the merger, he said, but favored its postponement until conditions became more normal, especially in exports. But strains upon the management, within as well as without, hastened the execution of the plan. At the President's suggestion, an act of Congress on August 9, 1940, consolidated the three parts of the national oil industry in a single institution, to which the name *Petróleos Mexicanos* was extended.[26]

[25] *Diario Oficial*, July 20, 1938.

[26] *Diario Oficial*, August 9, 1940.

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The new organization was to manage the expropriated oil property, both movable and real estate, and also any property that might revert to the government on the final liquidation of the mixed enterprise, *Petróleos de México, S. A.*, together with the reserve oil lands granted in concession to that corporation and any other petroleum reserve lands set aside thereafter by the federal government. The organization was authorized to carry on every sort of operation appertaining to the oil industry, such as exploration, exploitation, refining, storage, distribution, and sale. It was given full power to execute contracts and to do any legal act appropriate to the fulfilment of its purposes. The direction rested with a board of nine members, five appointed by the President (two on the proposal of the Minister of Finance and Public Credit and three at the instance of the Minister of National Economy) and four named by the petroleum workers' union.

Since the reorganization in the summer of 1940, still another step has been taken to strengthen the legal structure of *Petróleos Mexicanos.* An organic law for the institution was enacted on the last day of the year.[27] The directing board of nine remains mixed, as before. The manager and assistant manager are appointed by the President of the Republic. These officials represent the organization as attorneys-in-fact with respect to their principal, in accordance with article 2554 of the civil code. They may issue general and special powers of attorney after previous approval of the board. The board may appoint the remaining officials and employees, subject to the conditions of such collective labor contracts as may exist; but in practice the board has exercised its statutory right to delegate its power of appointment to the general manager.

The powers of *Petróleos Mexicanos* under the new organic law, though substantially those embodied in the previous decree, were broadened with regard to financial capacity. The organization may sign credit instruments and issue securities in accordance with the law of deeds and credit transactions.

[27] *Diario Oficial*, December 31, 1940, Part I, p. 9.

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It may dispose of properties which constitute its capital either by sale or by mortgage in aid of the conduct of its business. When real estate is involved, however, the approval of the federal executive must be obtained through the Treasury Department and the Department of National Economy. Oil in the fields or the right to exploit these may not be alienated under any circumstances.

The organic law of December 1940 laid down a flexible formula by which the nation through the federal government might share in the proceeds of the oil enterprise. All governmental investments therein are supposed to bear interest at three per cent. In addition, the government is to receive royalties ranging from ten to thirty-five per cent on all oil produced. The percentage varies with the characteristics of the different fields and also, as the law is interpreted, with reference to "the prices which are actually obtained in foreign markets." [28] After the foregoing payments are made—and the rates seem heavy—the formula contemplates that twenty per cent of the earnings (provided they are in liquid form) shall go to a reserve fund; and, of the remaining eighty per cent, three quarters shall go to the government and one quarter to the workers in the industry.

Of true administrative autonomy, there has been no opportunity for a trial. Mexican administration can hardly avoid the absorptive effects of the presidency; under Cárdenas, especially, the influence of the office was direct and universal. The institutional forms themselves have recognized this condition in providing for the appointment of the general manager by the President, not by the board of directors. Apart from the reflex of Mexican political conditions generally, the international frictions and financial stringencies that beset *Pemex* have not been favorable to independence under a self-contained fiscal system. In practice, the enterprise is administered in the first instance by the Minister of Finance and Public Credit and the Minister of National Economy.

[28] Report of March 18, 1941, in *International Petroleum Trade*, vol. 10, No. 6, p. 149.

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Indemnification

With the decision of the Mexican Supreme Court, the oil controversy entered into a new phase, for the displaced companies had exhausted the resources of domestic law in resisting expropriation itself. The issue turned on the amount and means of indemnification.[29] Some American concerns had early complained to the State Department. In a public statement, issued on March 30, 1938, Secretary Hull had declared:

> This government has not undertaken and does not undertake to question the right of the Government of Mexico in the exercise of its sovereign power to expropriate properties within its jurisdiction. This government has, however, on numerous occasions and in the most friendly manner pointed out to the Government of Mexico that in accordance with every principle of international law, of comity between nations, and of equity, the properties of its nationals so expropriated are required to be paid for by compensation representing fair, assured, and effective value to the nationals from whom these properties were taken.[30]

Mexico's reply on the following day sought to assure Washington that "Mexico will know how to honor its obligations of today and its obligations of yesterday."[31] Addressing the Mexican Congress in September 1939, President Cárdenas stated that the government, in carrying out its firm intention to discharge its obligations, had from the beginning reserved, against the payment of indemnities, twenty per cent of the

[29] Some publicists (taking account of "the absence of agreement on the status of private wealth throughout the globe") hold that there is "no convincing precedent" for indemnification in these circumstances; *cf.* Payson S. Wild, Jr., "International Law and Mexican Oil", *Quarterly Journal of Inter-American Relations*, vol. 1, No. 2, April 1939, pp. 5-21.

[30] *The Department of State Bulletin*, April 2, 1938, p. 435. In contrast with the United States, Great Britain challenged Mexico's right of expropriation as arbitrary, amounting to confiscation. The British government supported the Mexican Eagle Company (*El Aguila*, a subsidiary of the British Dutch-Shell) by formal protests and in May 1938 followed these by a demand for payment of claims arising out of the revolutions of 1910 and 1920. The protests were set forth in such peremptory manner that President Cárdenas broke off diplomatic relations.

[31] Thomson, in *Foreign Policy Reports*, vol. 14, No. 11, p. 128.

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value of the oil products exported.[32] But, assuming a literal compliance,[33] Mexico's access to markets and volume of foreign sales were not such in 1939 as to give early and large reality to this reassurance.[34]

In calculating the indemnity, the major crux of the controversy was the inclusion or exclusion of the value of the oil underground, which obviously is the main worth of any oil-bearing property. The recoverable oil in the fields formerly owned by the foreign companies has been variously estimated. One claim—presumably excessive—has put the amount at two

[32] William O. Scroggs, "Mexican Anxieties", *Foreign Affairs*, January 1940, pp. 275-76. The *Instituto de Estudios Económicos y Sociales* (in "Observaciones Adicionales al Informe del Señor Efraín Buenrostro", *El Economista*, April 16, 1941, p. 36) disputes the setting up of a true reserve fund for this purpose.

[33] As background for skepticism, it was remembered that Mexico went into default on its external and internal loans (the latter chiefly held by foreigners) of 535,038,704 pesos in 1913, as well as on its bonded debt of the national railways of 502,077,441. *Cf.* Edgar Turlington, *Mexico and Her Foreign Creditors* (New York, 1930), p. 289. The same author, writing in 1940 on "Foreign Investments" in "Mexico Today", *The Annals of the American Academy of Political and Social Science*, March 1940, p. 104, remarked of the bonds issued or guaranteed by the Mexican government: "The amount paid by foreigners for such bonds was in excess of half a billion dollars. The market price of these bonds is now about twenty-five million dollars."

A note from the British government to the Mexican government dated May 11, 1938 (Cmd. 5758, p. 13), stated that "Mexico's public external debt excluding all foreign claims not represented by Mexican government securities amounts approximately to 243 million United States dollars of principal and 267 million United States dollars of accrued interest, to which must be added about 240 million dollars principal and 226 million dollars interest in respect to foreign debt dependent on railways for which the Mexican government assumed responsibility when they expropriated them on the 24th June, 1937."

A catalogue of all Mexico's debts is given by the Standard Oil Company of New Jersey, *Present Status of the Mexican Oil "Expropriation"* (New York, 1940), Appendix B. A study attributed to the Institute of Social and Economic Studies, reproduced in Annex 1, lists Mexico's debt as 8,584,873,000 pesos, to which is added an estimate of the value of the indemnity to the oil companies of $1,500,000,000 or 6,450,000,000 pesos at the exchange rate of 4.30 (p. 114).

[34] In 1940, according to a statement of the Standard Oil Company of New Jersey on August 23, 1940, the reserve amounted to only $3,200,000. "Would not any promises to pay even a few cents on the dollar be illusory?" it was asked. *The New York Times*, August 24, 1940.

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billion barrels, the bulk of it in the Poza Rica field where large sums were spent in exploration.[35]

As a matter of fact, the American companies partly sidetracked their claims regarding subsoil rights in 1939, even before the Mexican Supreme Court upheld the expropriation decree. Donald Richberg, attorney for the companies, sought to negotiate an agreement, appearing in the rôle of mediator rather than that of counsel resisting "the aspirations" of a party-opponent.[36] An effort was made to eliminate the controversial question of the proper interpretation of article 27 by avoiding all discussion of the rights of the foreign companies to subsoil. The question was not ownership but compensation, to which the companies linked the issue of management. It was proposed that, while full ownership passed to the government, the companies should work the fields for fifty years. So far as Mexican spokesmen were willing to give ear at all to a mode of collection that might amount to a re-surrender of the properties, the duration of private operation was a stumbling block; the government would not agree to a period longer than ten years and the companies to less than twenty-five.[37] Nor could the parties agree on the balance of power in the mixed company that was contemplated to carry out the joint scheme.[38]

Apart from the subsoil rights, there have been wide differences of opinion about the value of the expropriated properties. The Mexican Expropriation Law of 1936 (article 10), pursuant to article 27 of the constitution, sought to base the indemnity primarily on the fiscal value of the property as recorded for purposes of taxation. Mexican lawyers, however, have exempted from these provisions "vital" expropriations which are "historical landmarks in the records of mankind", and for these, "payment is but a secondary matter."[39] On

[35] *Ibid.*, August 25, 1940.

[36] *The True Facts About the Expropriation of the Oil Companies' Properties in Mexico*, Government of Mexico, p. 110.

[37] *The Economist*, March 1, 1941.

[38] Gordon, *op. cit.*, p. 125.

[39] Edgar Turlington, in *Annals of American Academy of Political and Social Science*, March 1940, p. 107.

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the other hand, most estimates of foreign capital in Mexico deal with the ambiguous concept of "value". Vast discrepancies in the cited figures may result from the alternative approaches to valuation (capitalization of probable income, market values, capitalized earnings, and book values, not to mention reproduction cost, actual investment, "prudent" investment, and other possible bases, all complicated by various ways of conceiving and reckoning depreciation and obsolescence).[40] When expressed in dollars, moreover, figures gyrate widely because (except in the case of securities payable in foreign currency) investments are converted into the currency of the country in which they are made and follow its rate of exchange.

A 1934 Mexican official estimate of American capital invested in Mexico's oil was 499,000,000 pesos — fifty-two per cent of the total investment in the industry.[41] But some later official estimates were lower. The Mexican Industrial Census of 1935 put at 367,758,000 pesos the total investments in oil fields and refineries at the end of 1934 (not including oil lands, retail sales agencies, and transportation facilities outside the fields, other than pipe lines).[42] At the then current rate of exchange, the total amounted to $100,000,000, of which $49,000,000 was listed as British and $42,000,000 as United States capital, exclusive of an item for refinery stocks not segregated nationally.[43] A study under the auspices of the United States Department of Commerce, based on statistics furnished by the companies themselves, fixed $69,000,000 as the total of direct American investments in the Mexican petroleum industry at

[40] Paul D. Dickens, *American Direct Investments in Foreign Countries, 1936* (Washington, 1938), Department of Commerce, Bureau of Foreign and Domestic Commerce, Economic Series, No. 1, p. 46.

[41] Estados Unidos Mexicanos, Secretaría de la Economía Nacional, *México en Cifras* (1934), p. 66.

[42] *México en Cifras* (1938), p. 13. *Cf.* also Silva Herzog, in *Annals of Collective Economy*, vol. 15, 1939, p. 62; and Frederico Bach, "The Distribution of Wealth in Mexico", in "Mexico Today", *Annals of the American Academy of Political and Social Science*, March 1940, p. 75.

[43] Silva Herzog, in *Annals of Collective Economy*, p. 62.

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the close of 1936.[44] As of December 31, 1936, the companies valued their fixed assets on their books at 221,822,025 pesos—about $60,247,000.[45]

Amid these claims and counterclaims, and despite the aloofness of the companies, a valuation was reached under the forms of Mexican law. The Expropriation Act of 1936 (article 11) provided that, if the amount of the indemnity was controverted, the matter should be brought before the appropriate court "and said court shall allow the litigant parties a period of three days to appoint their respective experts; and notify the parties that the court will designate the experts if they fail to do so." Any disagreement was to be resolved by a third expert to be appointed by the parties jointly or, failing this, by the court. On December 8, 1939, the oil companies mentioned in the expropriation decree, together with a number of subsidiaries, were cited to appear in the first civil court of the Federal District for the appointment of experts, but the companies declined to designate experts in their behalf. When the court received the opinion of the experts named by the government—engineers Enrique Ortiz, Trinidad Paredes and Ricardo T. Jordán—it gave its decision on August 20, 1940, putting the value at 178,040,149 pesos plus 25,238,036 pesos of tax values.[46] It may be presumed that the valuation of the Mexican experts was obtained "by taking fiscal values for real estate and cost less depreciation for surface properties not entered in the fiscal or tax records."[47] Of course, subsoil petro-

[44] Dickens, *op. cit.*, p. 14. The valuation is based on "the net investment of Americans in the foreign company as shown on the books of that foreign company" (p. 36). But a much higher estimate is given by Lewis, *op. cit.*, p. 23.

[45] Silva Herzog, *Petróleo Mexicano*, p. 153.

[46] *Ibid.*, pp. 155-56.

[47] Standard Oil Company (N. J.), *The Reply to Mexico: The Companies' Reply to the Mexican Document "The True Facts About the Expropriation of the Oil Companies' Properties in Mexico"*, pp. 4-5. The company's comment was: "In view of the arbitrary depreciation of the surface values, admittedly compensable, the figure of 510,000,000 U. S. currency, which Minister of Foreign Affairs Pani placed on the oil properties on March 31, 1923, would come

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leum values were eliminated. The value of the Sinclair interests, for which a settlement of $8,500,000 had been effected on May 1, 1940, was not included in the approximate $40,000,000 indemnity figure. Counting in the Sinclair compensation, the American and British interests were to share about equally in the sums to be paid. Several counterclaims stood against the aggregate valuation, including the employees' claim of 50,000,000 pesos for severance pay, filed at the time of expropriation. An undetermined amount of taxes also awaited adjustment.

The companies indignantly refused to accept the court's valuations and the government's promises to pay on that basis. "To accept them as fulfilling the conditions of an expropriation", declared a statement published by the Standard Oil Company of New Jersey on August 23, 1940, "would be to accept in fact the confiscation of the major portion of the seized properties."

The stand of the American companies, considered within the framework of the good-neighbor policy as applied by the Roosevelt administration and especially as confirmed by the turn of world events, left open only two courses to the diplomacy of the United States.[48] One course was to propose arbitration; the other was to negotiate an agreement with the Mexican government and to attempt to make the American companies accept it.

In a note to the Mexican government of April 3, 1940, Secretary Hull suggested that the oil controversy be solved by

close to representing the real value of the foreign-owned portion of the petroleum industry." *Ibid.*, p. 5.

Henry D. Ralph, "United States–Mexico Pact Does Not End Oil Controversy", *The Oil and Gas Journal*, November 27, 1941, p. 31, states that the production of the Standard properties expropriated by the Mexican government now totals approximately 11,000 barrels daily.

[48] Critics of the administration claimed that whatever edge the State Department notes had was dulled by separate informal reassurances. On March 28, 1940, Representative Hamilton Fish demanded in the House the recall of Ambassador Josephus Daniels from Mexico. He said: "The inept and cowardly attitude of our administration encourages a continuation of the lawless and ruthless confiscation of American-owned properties in Mexico, which may spread to other South American countries." *Congressional Record*, vol. 86, Part 4, p. 3638.

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"the appropriate, fair and honorable procedure of arbitration." Once again he fully conceded the right of a sovereign state to expropriate property for public purposes but he insisted that no expropriation was legal unless it was accompanied by "adequate, effective and prompt payment." The arbitration proposal was not based on existing treaties—President Cárdenas had previously insisted that the question was purely domestic and that such questions were excluded from the scope of the Inter-American Arbitration Treaty of 1929—but rested rather on the broader grounds of harmony and friendly relations between the two countries.[49]

The recommendation evoked vigorous protests in Mexico. Parades against arbitration were held in the principal cities. In Mexico City it was said that 20,000 workers marched while the Tarascan Indian, President Cárdenas, together with cabinet ministers and his staff, stood beneath the bell rung by Miguel Hidalgo in 1810 to proclaim Mexico's independence. On the issue of expropriation, Mexican labor had already mobilized Latin American support. The Confederation of American Democracies passed a resolution which "in every way justified and defended the attitude which the Mexican Government and people have assumed throughout the oil conflict." [50] The Workers of Colombia declared that in their opinion "the international arbitration proposed by the United States was unacceptable because such a procedure would compromise the sovereignty of the Mexican State." [51] The Confederation of Cuban Workers wrote to President Cárdenas that it considered the proposal of arbitration "an outrage to the sovereignty of the brother nation of Mexico." [52] In the counter-note of May 1940 that rejected arbitration, Señor Eduardo Hay, Foreign Secretary of Mexico, declared that "the unanimous will of the continent has been exhibited in the sense that international action in favor of foreigners is only proper when

[49] *The Department of State Bulletin*, April 9, 1940, pp. 380-83.

[50] *Mexican Labor News*, March 28, 1940.

[51] *Ibid.*, April 25, 1940.

[52] *Ibid.*, May 16, 1940.

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domestic legal resources having been exhausted, a case of denial of justice can be shown." All that was lacking, he said, was the payment of compensation to the expropriated companies. "It was the oil companies themselves which were responsible for the fact that the Mexican obligation to them has not been liquidated," continued Señor Hay, "since they have systematically refused to allow the value of their properties to be determined, whether in the friendly manner proposed by Mexico through private negotiations or before competent courts." [53]

On the eve of the publication of Mexico's refusal of arbitration, a significant event took place: The Consolidated Oil Corporation (controlling the Mexican Sinclair Petroleum Company, Pierce Oil Company, *Compañia Terminal de Lobos*, and *Stanford y Cia*) settled with the Mexican government for $8,500,000 [54] and the delivery to it of 20,000,000 barrels of oil in the next four years, at a fixed price for the first year and a price to be adjusted to the market in the subsequent three years. The negotiations were not without strain, for the original asking price of the Sinclair interests was $32,000,000. Thus was breached the united front of opposition to Mexico's assessment of compensation. Mexican opinion was hopeful that company resistance would be broken in the end by the Sinclair capitulation, together with contracts signed about the same time with the First National Oil Corporation of New York and the Sinclair Refining Company [55] for sizable shipments of Mexican oil.[56] Symbolical of the hopeful mood was

[53] *The New York Times*, May 5, 1940.

[54] In 1937 the share of the Consolidated Oil Corporation of New York in the total production was 8.76 per cent; that of Standard Oil of New Jersey, 11.97. *Mexico's Oil*, p. 84. Professor Silva Herzog states (*Petróleo Mexicano*, p. 185) that the Sinclair interests comprised 40 per cent of the American interests and 15 per cent of all foreign interests.

Of the sum agreed upon, $4,000,000 had been paid by the end of 1941.

[55] A contract negotiated with the Petroleum Heat and Power Company at the same time was later cancelled by the American company.

[56] The first contract entered into by the Mexican government with an American company for delivery of oil was with the Eastern States Petroleum Company of Houston for monthly deliveries of 370,000 barrels of crude (August 1938). Silva Herzog, *Petróleo Mexicano*, pp. 199-200.

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the cheering crowd that greeted Professor Jesús Silva Herzog, then head of the distributing agency, when he arrived at Mexico City's airport after the conclusion of the pact with Consolidated Oil.[57] But a general settlement was not readily obtainable, nor were outlets at hand to adequate and profitable markets.

Through the winter of 1940-1941 and thereafter, conversations between the Undersecretary of State and the Mexican Ambassador, Dr. Francisco Castillo Nájera, surveyed all outstanding problems and sought to find a basis of settlement.[58] The issues at stake included not only the oil expropriation but also certain claims which have been pending for years. The question of adjustments merged in matters of hemisphere development and defense. Despite unfounded rumors of direct negotiations with the oil companies,[59] the main and effective dealings were between governments. A comprehensive understanding was substantially completed in September 1941 but was held in abeyance while company concurrence was sought. Finally, still lacking such support, it was formally announced on November 19, 1941.

The range of the understanding is wide; it is in fact a group of agreements, concluded in the unexpressed context of continental defense and thereby interrelated. In the words of Secretary Hull, the accord embraces

> an adjustment of property claims including the so-called General Claims and the agrarian claims, an agreement covering the expropriation of United States petroleum properties, an agreement in principle to negotiate a reciprocal trade agreement, an arrangement between the United States Treasury Department and the Mexican Government and the Banco de Mexico for the stabilization of the Mexican peso, an agreement for purchase by the United States Treasury Department of newly mined Mexican silver directly from the Mexican Government and an

[57] *Mexican Labor News*, May 9, 1940.

[58] *The New York Times*, January 18, 1941.

[59] *The Oil and Gas Journal*, March 6, 1941, p. 26; see also *El Universal*, April 30, 1941.

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agreement between the Export-Import Bank and the Mexican Government for the extension of credits to facilitate the completion of the Inter-American Highway through Mexico.[60]

Little need be said here of the subjects of accord other than oil. The general claims and agrarian claims are settled for $40,000,000 in all, of which it is recognized that $3,000,000 has been paid on agrarian claims arising between 1927 and 1940; in addition, $3,000,000 is to be paid at once and the remainder liquidated by annual installments of $2,500,000. In behalf of exchange equalization, pesos are to be bought with dollars by the United States Treasury to the extent of $40,000,000. The purchase of "newly mined silver direct from the Mexican Government on a basis similar to that under which such purchases were made prior to 1938" will involve receiving 6,000,000 ounces a month, estimated to yield Mexico up to $25,000,000 yearly. The Export-Import Bank is to take Mexican highway bonds ("hitherto consistently serviced without delays or difficulties") as security for credits. The State Department summary added: "The Export-Import Bank is disposed to consider sympathetically other requests for credits for developments in Mexico, whether they are to be executed by the Mexican Government or are private enterprises guaranteed by that Government, or one of its official agencies." The Export-Import Bank will establish credits of $30,000,000 in annual installments of $10,000,000 for road-building.

As for the oil properties, the agreement reached by an exchange of notes on November 19 did not provide a settlement but merely an approach. The arrangement had been undertaken, explained Secretary Hull, "in view of the total absence of any negotiations between the American interests and the

[60] Department of State Press Releases, November 19, 1941, No. 554. The main financial arrangements were covered by an agreement between Secretary of the Treasury Morgenthau and Eduardo Súarez, Minister of Finance of Mexico. Treasury Department Press Service, No. 28-56, November 19, 1941. The convention on claims was ratified by the United States Senate on January 29, 1942. S. Rept. No. 21, 77th Congress, 2nd sess. *Congressional Record*, vol. 88, pp. 860 *et seq.*

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Mexican Government during the present calendar year." [61] Each government was to appoint within thirty days "an expert whose duty it shall be to determine the just compensation to be paid the nationals of the United States of America whose properties, rights or interests in the petroleum industry in the United Mexican States were affected to their detriment by acts of the Government of Mexico subsequent to March 17, 1938." [62] The experts were to complete their work within five months after the date of the agreement.[63]

As criteria it was stated that "the experts shall not take into account reasons of a technical nature . . . but will fix adequate indemnities on the basis of common rules of justice and equity," subject to "equitable interest" set by the experts. The period of payment must not exceed seven years. If the two experts concur, "both Governments agree to consider unappealable the joint report resulting from the agreement." If the experts should not be able to agree within five months, they, the governments, are pledged within a month to "initiate diplomatic negotiations with a view to establishing the amount

[61] Department of State Press Releases, November 19, 1941, No. 555.

[62] As the expert for the United States, the appointment of Morris L. Cooke, the well-known and versatile industrial engineer, was announced by the President on December 19. Mexico chose as its expert Manuel J. Zevada, Undersecretary of the Department of National Economy. The preliminary discussions were held in Mexico City during January 1942, after which Mr. Cooke returned to the United States with the intention (it was reported) of conferring with the American companies and of returning to Mexico in March.

[63] The agreement stated: "Within a period of two months, from the date of their first meeting, the experts shall obtain and receive all data, reports, and evidence; except that a further period of one month shall be allowed for the presentation by either expert of additional data, reports, and evidence complementing, clarifying or rectifying the material obtained or received in the said period of two months."

Appropriate assistance was to be provided, the cost being equally shared. All Mexican records bearing on oil were to be open. The expert for the United States was pledged to relay to the interests affected any request for information submitted by the Mexican representative. In this regard it was stipulated that the experts "shall not take into account any specific evidence submitted *ex parte* when the person or institution submitting it refuses in connection with it to furnish pertinent complementary evidence requested by the United States expert."

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of the compensations to be paid." If such diplomatic relations should remain fruitless at the end of five months from their beginning, the oil agreement of November 19, 1941 would be without effect and the $9,000,000 deposited by Mexico on account would be returned. The situation would revert to what it was before November 1941.

In the statement of Secretary Hull that accompanied the announcement of the oil agreement in November, it was observed in conclusion that "The American interests involved will retain full liberty of action in determining the course they will pursue before, during, and after the valuation proceedings." [64] Certain of the companies did not wait on the choice of the experts to declare the agreement unacceptable.[65] But much has happened swiftly. Among other uncertainties of attitude, it remains to be seen what results, if any, will attend the declaration in the oil agreement that "the Government of the United States will facilitate negotiations between the Government of Mexico and representatives of such oil companies as may be interested in an agreement for the marketing of exports of Mexican petroleum products." *

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[64] Department of State Press Releases, November 19, 1941, No. 554.

[65] The president of the Standard Oil Company of New Jersey, Mr. W. S. Farish, found the arrangement unacceptable for three reasons: "(a) it purports to validate the original confiscation which violated international law, and therefore jeopardizes all foreign investments; (b) it promises payments in eleven years from the time of expropriation by a government which already now is hopelessly in default on its foreign debts, and thereby repudiates the principles enunciated by the United States Government that valid expropriation is conditional on the payment of 'adequate, effective and prompt' compensation; (c) aside from these fundamental principles the agreement itself is so vague and ambiguous as to seem to the companies dangerous and it binds the companies to accept a speculative promise for their tangible properties." Paraphrased in *The Oil and Gas Journal*, November 27, 1941, p. 31.

* The second installment of this article, to appear in a later issue of the QUARTERLY, will consider the marketing problems and possibilities, labor relations, financial results, and the future provision of capital for the Mexican oil industry.—ED.

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ADMINISTRATIVE ORGANIZATION OF THE MORMON CHURCH

IN 1940 the Mormon Church[1] had 868,528 active communicants.[2] Their ecclesiastical affairs are administered through approximately 140 regional units called "stakes", in the United States, Canada, Mexico and Hawaii; and through some thirty-two far-flung units designated as "missions".[3] Each "stake" contains from six to ten local units called "wards", each presided over by a bishop and two counselors. There are some 1,200 wards. Stakes are presided over by a stake president and two counselors. This local organization of authority into a plural executive of three persons is typical of both line and staff agencies in the Church, and comprises a system of administration the principles of which are found in the Mormon theory of Presidency. We shall turn to this idea in discussing the president and the First Presidency, composing the highest authority in the Church.

The exception to the rule of three is found in the central direction of each mission, over which a single officer, a mission president, presides. Local units within the missions, however, conform to the rule. The reason for this may be found in the fact that stakes, in the Mormon scheme of central-local relationships, correspond roughly to states in a federal order. Missions, on the other hand, correspond roughly to "terri-

[1] The title, "Mormon Church", is commonly used to designate the Church of Jesus Christ of Latter-Day Saints, which is the preferred and correct name of the group having its headquarters at Salt Lake City. There is also the "Reorganized Church", with headquarters in Independence, Missouri. This study is concerned with the larger body, which under Brigham Young pioneered in the region of the Great Basin.

[2] *General Conference Report*, April 1941, p. 5.

[3] See the Church *Directory 1940; Improvement Era* (April 1935), vol. 38, pp. 234-235.

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tories" awaiting statehood. In these "territories", extending from Canada to Argentina and from Syria to New Zealand, Mormon proselyting is most active. As local units develop in membership and Church government, stakes are organized. Since 1930, new stakes have been formed at the rate of about 3.6 per year. Over this vast and growing organization, the president of the Church presides as prophet, leader, judge, and chief administrator.

It misses the mark, however, to declare that the power of the president expresses itself in one-man rule. In matters of broad policy, the strategic power of the Church may be said to rest with fifteen or more men. In matters of administration, executive business and lesser detail, affairs are directed by the First Presidency, which consists of the president of the Church plus the two men he selects for his counselors. In this regard it is important to understand the Mormon theory of the Presidency. Generally stated, the rule is that a president, once chosen in any jurisdiction, is free to select two counselors. Together, the three compose the Presidency and have broad administrative powers within their sphere. In reaching decisions and disposing of business, the rule of unanimity is the norm. But failure to agree unanimously does not result in delay or "buck-passing" because the responsibility for decision-making rests on the president. In practice a president may call for opinions from either or both counselors. If all agree, the opinion is executed: for example, the appointment of a lesser officer. If the president disagrees, he may express his dissent and make an independent decision. Counselors are not bound to conform to this decision if conscience will not permit. But if, after discussion, unanimity is impossible of attainment, it then becomes the responsibility of the president to make a decision, which the two counselors are bound to support and carry through. The idea of Presidency is thus different from the rule and practice of the ordinary administrative commission, where the chairman may be both irresponsible and powerless. A president, local, staff, or Church-wide, in the Mormon organization is not

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a chairman. He is a president and as such a member of a Presidency.[4]

In discussing the powers and functions of the Mormon Church president, as the pinnacle of the hierarchy, it must be borne in mind that he acts in conjunction with two men, his fellow counselors in the First Presidency. As initiative and ultimate responsibility lie with the president, however, we shall refer to the powers of the Presidency as if they pertained to him and not to the group of three.

A statement of the president's nominating and appointing power will give some idea of his significant position in a political and administrative sense. The power of nomination may be distinguished from the power of appointment, inasmuch as the former requires ratification by the people. Such ratification is a necessary legal step for most Church offices. Popular acceptance is signified, when called for, by a show of hands in open meeting. Thus nomination is virtually identical with appointment, although the threat of popular disapproval is always present.

The power of nomination extends to vacancies which occur in the central government of the Church during a president's administration. These may include vacancies in the Council of Twelve and the First Council of Seventy,[5] which rank one and two in order of importance after the First Presidency. Such "appointments" carry seniority in their respective councils and are for life or good behavior.[6] In addition the presi-

[4] The sixth president (1901-1918), Joseph F. Smith, stated: "I propose that my Counselors and fellow Presidents in the First Presidency shall share with me in the responsibility of every act which I shall perform in this capacity. I do not propose to take the reins in my own hands to do as I please; but I propose to do as my brethren and I agree upon, and as the Spirit of the Lord manifests to us." *Gospel Doctrine: Selections from the Sermons and Writings of Joseph F. Smith*, compiled by John A. Widtsoe (Salt Lake City, 1919), pp. 219-220.

[5] The First Council of Seventy consists of only seven men. The word "seventy" here designates a priesthood office, not a number of men.

[6] Two members of the Council of Twelve "resigned" in 1905. See Joseph F. Smith, *Essentials in Church History* (Salt Lake City, 1922), p. 663.

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dent, since 1938, may name a new Presiding Bishopric (of three bishops), which is the specialized agency of the Church for financial administration in central-local relationships. The above officers are nominated subject to the approval of the whole Church, as expressed by uplifted hands at general and stake conferences. Subject to approval in their respective localities, he may nominate stake presidents (there are approximately 140 such offices), bishops for any of the 1,200 wards, and one or more "patriarchs" (evangelists, at present about 200) for each stake. In practice, local authorities, the Apostles, and other officials are generally consulted in these matters.

In more direct fashion the president's appointing power *per se* extends to the following central staff and auxiliary officers: the Church Historian and Historian's Office, presidents (and their counselors by suggestion) of the Deseret Sunday School Union,[7] Young Men's Mutual Improvement Association, Young Women's Improvement Association, National Women's Relief Society, and the Genealogical and Historical Society of Utah. He also appoints the General Church Board of Education (and its Commissioner of Education),[8] the General Committee and the Managing Director of the Church Welfare Plan; and presidents for each of the Mormon Temples at Salt Lake City, Manti, St. George, Logan (all in Utah), Mesa (Arizona), Cardston (Alberta, Canada), and Honolulu (Hawaii). As direct "line" officers, he may appoint presidents for each of the thirty-two missions, in addition to similar officers in the wards and stakes. He may name the organists and the musical staff of the Great Tabernacle in Salt Lake

[7] These auxiliaries, such as the Sunday Schools, are officered centrally by a Presidency of three, aided by advisory general boards of as many as forty men and women. In some cases the name superintendency is used instead of presidency, but this does not alter the pattern. Since 1842 when these agencies began, they have developed administrative as well as advisory powers in terms of localities.

[8] In 1938 the Department of Education operated 333 teaching units, ranging from Brigham Young University (2,700 students) to off-campus religious instruction for college and high school students throughout the West.

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City; a General Church Music Committee (which administers the L. D. S.–McCune School of Music and Fine Arts of Salt Lake City); and officials of any *ad hoc* agencies (such as the Office of European Missions, formed in 1939 as a result of the withdrawal of Mormon missionaries from the European war zone) which may be needed from time to time. The custodial, clerical and fiscal staffs at Church headquarters, converging in the office of a Financial Secretary to the First Presidency,[9] are also subject to presidential control.

Upon assuming office, a president of the Church is free to name and select his two counselors, who with him will compose the governing body, or First Presidency of the Church. Usually these two men are seasoned members of the Council of Twelve.[10] However, over the century, ten men have been inducted into the First Presidency as counselors who were not members of the Twelve at the time of their appointment.[11] The recent outstanding example of this was in 1933 when President Heber J. Grant named J. Reuben Clark, Jr., former Ambassador to Mexico and Undersecretary of State, to fill the post left vacant by the death of Charles Nibley. It is well to keep this aspect of the power of appointment before us in further examining its extent.

[9] The office of Financial Secretary, which might be said to represent the acme of the Mormon "civil service", is at present held by Frank O. Evans, formerly Special Counsel for the Hoover Federal Farm Board and co-author with E. A. Stokdyk of *The Law of Agricultural Co-operative Marketing* (Rochester, 1937). He succeeded the late Arthur Winter, who died in 1940 after serving in the Church headquarters establishment for approximately fifty years.

[10] An interesting study could be made of the rôle of the Council of Twelve in Mormon history and its relationship to the First Presidency. The trend increasingly appears to place the Presidency as "the supreme governing power of the Church . . . being chiefly supported by the Council of the Twelve." See *Priesthood and Church Government*, compiled under the direction of the Council of Twelve by John A. Widtsoe (Salt Lake City, 1939), p. 260.

[11] Sidney Rigdon, F. G. Williams, Hyrum Smith, William Law (counselors to Joseph Smith, 1830-1844); J. M. Grant, Daniel H. Wells, John W. Young (counselors to Brigham Young, 1847-1877); John R. Winder (Joseph F. Smith, 1901-1918); C. W. Nibley, J. R. Clark, Jr. (Heber J. Grant, 1918—).

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In addition to the nominations and appointments which occur directly in the ecclesiastical organization, the president influences (and in some cases may directly control) the appointment of the heads of numerous enterprises, most of which use the corporate form of organization, and in a loose sense may be designated as Church, or quasi-Church, corporations. First may be listed the agencies which have to do with printing and publishing: *The Deseret News* (daily evening newspaper, circulation approximately 40,000, Salt Lake City); the *Deseret News Press* (publishing, binding and jobbing); the *Deseret Book Co.* (retail bookstore and fixture establishment); *The Improvement Era* (monthly periodical — "The Voice of the Church" — with a national circulation of about 50,000–60,000); *The Relief Society Magazine* (monthly women's journal); *The Children's Friend* (monthly young folks' magazine); and *The Utah Historical and Genealogical Magazine.* These are all published in Salt Lake City. Then there is *Zion's Printing and Publishing Co.* which the Church maintains at its regional establishment in Independence, Missouri, and the missionary journal, *The Liahona*, published at the same place.[12] Further in the field of communications may be listed Radio Station KSL of Salt Lake City, a 50,000 watt CBS affiliate of which the Church owns a controlling share of the stock.

In the realm of banking and finance appear the Utah State National Bank,[13] Zion's Savings and Trust Co., Utah Savings and Trust Co., and the Beneficial Life Insurance Co., all with headquarters in Salt Lake City. The Church also owns a controlling interest in the Hotel Utah (leased to an operating company), Hotel Temple Square, and several apartment houses in Salt Lake City; the L. D. S. Hospitals in Salt Lake City and Payson, Utah, and Idaho Falls, Idaho; and the Dee

[12] The oldest continuous publication of the Church is the *Millennial Star* (founded 1840, Liverpool, England). This weekly is a prototype of similar weeklies in most of the missions.

[13] Of this Orval W. Adams, recently president of the American Bankers' Association, is executive vice president.

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Memorial Hospital in Ogden, Utah. It owns several Church farms scattered from Vermont to Hawaii and New Zealand. Many of these farms are used largely as memorial parks and information centers. The Utah-Idaho Sugar Co., Zion's Co-operative Mercantile Institution ("Z. C. M. I."), irrigation companies, and other enterprises, also fall within the influence of the presidential appointing power.

In addition, the president is incorporated as trustee-in-trust for the tithes and other Church revenue, and is responsible for the administration of these funds, approximating some five million dollars annually, for the Church schools, buildings, relief assistance, temples, welfare, missions, and grants-in-aid for local maintenance to wards and stakes.

Since 1936 a new undertaking has developed in the Church to cope with unemployment and economic problems. Known as the Church Welfare Plan, this is administered by the general committee and managing director [14] previously mentioned. It represents, in embryo, a coöperative establishment of huge proportions. Already it includes a string of voluntary storehouses, filled with food, clothing and furniture for the needy, as well as shop fixtures and equipment for work projects. It operates and maintains a central warehouse, factories, and grain elevators at "Welfare Square" in Salt Lake City, and is promoting a string of coöperatives under the general name, "Deseret Industries" (open to the public), branches of which are currently operating in various places, chiefly in Utah and California.[15]

[14] Harold B. Lee, formerly city commissioner of Salt Lake City, has been managing director of the "Plan" since its inception, and was made an Apostle (vacancy of Reed Smoot) April 6, 1941. (See Table, *infra*, p. 69.)

[15] To lighten the managerial tasks of the president, extensive use has been made of the modern corporation. There is, for example, "The Corporation of the President" (of the Church) which enjoys perpetual succession. As a holding company it "holds, or may hold, title to all properties of the Church, but which in practice deals chiefly with tax free properties in and about the headquarters of the Church." "The Corporation of the Presiding Bishopric" holds title mainly "to Church property beyond Church headquarters, especially in the mission fields." There are other corporations for local administrative purposes. See *Priesthood and Church Government*, p. 261.

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The important central "Zion's Securities Corporation", "which is owned by the Corporation of the President, holds title to and operates such properties as are subject to taxation, i.e., used indirectly for Church purposes."[16] As a significant operating concern, Zion's Cooperative Mercantile Institution, a manufacturing, wholesale, retail and jobbing establishment, should not be overlooked. This, however, by the 1920's had become a "mixed enterprise", in which the Church shares control, with private stockholders largely scattered through three or four wealthy families. The Salt Lake City downtown department store of "Z.C.M.I." will compare favorably, though on a smaller scale, with such mercantile establishments as Macy's of New York and Bullock's of Los Angeles. Then there is the Cooperative Security Corporation, a post-1936 development which has been established to fulfill certain requirements of the Welfare Plan.[17]

The structure of the Mormon Church, then, reveals not only strong central leadership, but also effective coöperation and hard work from the group as a whole.[18] The element of leadership finds expression in the Presidency of the Church, the nature of which we now examine more closely. Mormons are not wont to complain of invasion of their rights by Church authority. Many think that their institution offers a working example of how freedom and organization, liberty and law, efficiency and democracy, may be reconciled. Though these claims may be extravagant, the anatomy of control in the Mormon organization presents features highly interesting to the student of political science.

[16] *Ibid.*

[17] *Ibid.*

[18] John W. Caughey, *History of the Pacific Coast of North America* (New York, 1938), p. 331, says: "The Saints succeeded because their technique was one of cooperation and central authority rather than individualism. . . . Tenacity and unity were there in greater degree than with the average American frontiersman."

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A president retains his office for life, or until removed by the proper Church court for cause.[19] The average tenure of the seven presidents has been sixteen years. Brigham Young, the second to hold the office (1847-1877), held it longer (thirty years) than either Joseph Smith, his predecessor, or any of those who followed him.

The present incumbent, President Heber J. Grant, assumed office in November 1918. He is now 85 years of age. Joseph F. Smith, nephew of the founder, and the sixth president, held office for seventeen years. He had been a member of the First Presidency for the preceding twenty-one years, giving him a tenure of thirty-eight continuous years as a member of the First Presidency (1880-1918). Until Joseph F. Smith became head, the office was held by a succession of original associates of the Prophet Joseph Smith and Brigham Young, due to the rule that the Council of Twelve elects to and fills the office of president. Thus Joseph Smith and Brigham Young, who assumed leadership as relatively young men, were succeeded by contemporaries, who survived them and became presidents late in life.

Joseph Smith was 23, Brigham Young 46, upon assuming leadership. John Taylor (1880-1887) was 72; Wilford Woodruff (1889-1898) was 82; and Lorenzo Snow, the fifth president (1898-1901), was 84. Both Joseph F. Smith and Heber J. Grant were 63 when the high office came to them. Although Brigham Young had only 12 years of experience and training as an Apostle and member of the Council of Twelve, his five successors have had 42, 50, 49, 34, and (Heber J. Grant) 37 years as such before assuming the presidential office. It may thus be said that no person is likely to attain the office without a rich background of training and experience in Church administration—although the basic law of the Church[20] would appear to indicate that the Council of Twelve may choose any

[19] No president has ever been removed, although provision is made for the possibility. See *Priesthood and Church Government*, p. 219.

[20] See particularly the Mormon book of scripture, *Doctrine and Covenants*, Section 107; also *Priesthood and Church Government*, chapters 19-20.

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worthy male member of the Church to fill the office. As the practice, however, has always been to elevate the Senior Apostle of the Twelve to the position, this latter possibility is unlikely. In a sense, therefore, future presidents are destined to be rather mature, if not old, men. This might not be the case, however, in the choice of the next president, for the youngest member of the existing Twelve, Harold B. Lee, is 42, while his associates are all past sixty years of age. The passing of only a few years might reasonably find a man of forty-five or fifty in possession of the office. This leads us to a discussion of the "peculiar way" in which God "may designate persons to rule over their fellows"; for it is axiomatic in the lore of the Mormons that "the Lord knows whom He wants to lead His Church." [21]

The controlling act in Mormon administration occurs when new Apostles are named to fill vacancies in the Council of Twelve. This council becomes the ruling body of the Church upon the death of the president, which event automatically dissolves the First Presidency.[22] This became precedent following the death of Joseph Smith in 1844, when the Twelve were sustained by a vote of a general conference at Nauvoo, Illinois. The Twelve then governed the Church until December 1847.[23] At this later date, Brigham Young was sustained as President of the Church (having been Senior Apostle and President of the Twelve, functioning as an independent body) and a new First Presidency was organized. Reorganization took three of the Twelve into the new First Presidency, leaving nine members in the Council of Twelve. Three new Apostles were accordingly nominated and sustained, to complete the organization of that body as outlined in the *Doctrine and Cove-*

[21] See statement of Joseph F. Smith to Heber J. Grant in *General Conference Report*, April 1934, p. 10.

[22] *Priesthood and Church Government*, chapters 19-20.

[23] For the details of this period and the question of leadership the reader is referred to volumes 6 and 7 of the Documentary *History of the Church* (Salt Lake City, 1908), with which volume 3 of the work by the same name, published by the Independence, Missouri, group, may be compared. The Independence group bases its origin on the claim that Joseph Smith's oldest son, and not the Twelve, should have rightfully succeeded to the office.

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nants of the Church, given by Joseph Smith. This reorganized Council of Twelve then officered itself with the ranking Apostle (outside of the First Presidency) as head of the new Council, a procedure which is still followed. Reference, for clarity's sake, may here be made to the account which appears in a day-by-day history of the Church prepared by the Church Historian's Office. The following appears for November 23, 1918:[24]

> At a meeting of the Council of Twelve in the Salt Lake Temple, Heber J. Grant was set apart by President Anthon H. Lund as Prophet, Seer, and Revelator and trustee-in-trust for the Church and sustained in that position by the quorum. He chose the same counselors as President Smith [just deceased], namely, Anthon H. Lund and Charles W. Penrose. Anthon H. Lund was set apart as president of the Council of Twelve on account of his seniority in the quorum, but owing to his being in the First Presidency, which would require most of his time, Rudger Clawson was set apart as acting president of the Twelve.

The Twelve and the First Presidency thus form a flexible interlocking, though dual, body of fifteen leaders. Apostles who are advanced to counselorships in the First Presidency do not lose their status or seniority as Apostles. On the death of a president, such men may lose their status as counselors in the First Presidency, but they do not, if Apostles, lose their right of succession or place among the Twelve, even if a new president fails to include them in his council of three. Thus, although there are never more than a dozen members of the Council of Twelve, there may be fifteen Apostles with rank, at a given time.

So in reality the Church is governed by fifteen men, at least thirteen of whom must always be Apostles (namely, the President of the Church and the Council of Twelve). The two

[24] See Salt Lake City *Deseret News*, February 26, 1941 for a reproduction.

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counselors to the president need not be ordained Apostles and given rank, although in practice they usually are, or soon become so, as in the case of J. Reuben Clark, Jr., who was sustained as second counselor to Heber J. Grant in 1933.[25] In 1934 President Grant's first counselor, Apostle A. W. Ivins, died. Elder Clark was then advanced from second to first counselor and also sustained as an Apostle. This gave him rank in the Council of Twelve, and as such might some day afford him opportunity to succeed to the office of president. He is twelfth, however, in seniority at this writing. At the death of President Grant, should the successor (Rudger Clawson, now 84, and George Albert Smith, 71, are respectively heir-apparent and second in line at present) not select Apostle Clark to continue in the First Presidency, he would simply revert to a position in the reorganized Council of Twelve as the eleventh-in-succession. Had he not been made an Apostle in 1934 and not so continued, Mr. Clark would have returned to the body of the Church as a high priest, along with the thousands of other high priests who constitute the lay priesthood of the Church.

The statement that the Church is governed by an interlocking body of fifteen, divided into groups of three and twelve each, also emphasizes the point that the First Presidency, in one sense, can be said to be the executive committee of the Apostleship,[26] streamlined forward to one person at the head who is the President of the Church.

The achievement of this smoothly working relationship between the First Presidency and the Council of Twelve is the product of experience and development, based on the revelations of divine will accepted by the Church in the book of

[25] Mr. Clark wrote the State Department's notable *Memorandum on the Monroe Doctrine* in 1928.

[26] This analogy is intended only to indicate what might be termed a "business" relationship in the administrative sense, and in no way should it detract from the authority of the First Presidency or the Council of Twelve, which are in fact distinct and separate bodies of authority, each with a distinct mission and so recognized.

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Doctrine and Covenants.[27] The First Presidency was permitted to reorganize the last time (1918) within four days following the death of President Joseph F. Smith (November 19–November 23, 1918). Action has not always been so facile and immediate. Whether this has been the result of lack of initiative on the part of the Senior Apostle, in forwarding his cause, or of hesitation on the part of the Council either to put him forward or to suggest another, is difficult to state. However, Joseph Smith, who died June 27, 1844, was not succeeded by a president until Brigham Young was sustained December 27, 1847. A three-year "Apostolic interregnum" recurred on every occasion save one until 1898. Brigham Young died August 29, 1877. The Senior Apostle who remained, John Taylor, was not sustained as president until October 10, 1880. President Taylor, who died July 25, 1887, was succeeded by Wilford Woodruff, April 7, 1889. President Woodruff died September 2, 1898. But instead of the usual interregnum, Lorenzo Snow, at the age of 84, reorganized the Presidency and the Twelve, only eleven days (September 2-13, 1898) after his predecessor's death.

Some years later a reason for this change appeared, traceable not to Lorenzo Snow but to Wilford Woodruff, friend of the original Joseph Smith and a prolific record-keeper and student of detail. In the special conference of October 1901, after President Snow's own death, Joseph F. Smith stated that in 1898 President Woodruff left instructions "that in all future

[27] Attention might be here called to the fact that Section 107 (verses 25, 26) of this important work also names "The Seventy" as being a quorum, "equal in authority with the Twelve", just as the Twelve are stated (verse 24) to be equal in authority to the First Presidency. However, there is no systematic movement from this third ranking council to the second as is the case of the Twelve to the Presidency, largely due to the fact, it is believed, that no need has arisen; and to the further fact that the Seventy, as a third ranking body, have never been appointed as such, but only their quorum officers, seven men designated as "The First Council of Seventy". This problem requires an extensive study and understanding of Mormon practice, as an introduction to which see *Priesthood and Church Government*, chapter 22, "The First Council of Seventy", especially p. 280, n. 2.

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times, when the President of the Church should die, and thereby the First Presidency become disorganized, it would be the duty of the proper authorities of the Church to proceed at once, without any unnecessary delay, to reorganize the First Presidency." [28] Evidently President Woodruff's instructions were impressive, for the time has been cut down, successively, from three years to a few days—eleven (1898), seven (1901), and finally four (1918) — in which to reorganize the general authorities.

Following the election within the group of Apostles, their nomination and ordination have to be ratified by the membership of the Church. This is done at a regular general conference, held semi-annually in April and October, if convenient. Recently, however, special general conferences have been called for this purpose, to which each stake sends an unrestricted number of delegates. Afterwards, the people as a whole have the opportunity, twice each year, to sustain or reject all Church officers in their respective local (stake and ward or mission) conferences.

The method of voting in the general conference on a presidential proposition is unique and interesting at this stage of its development. This may be said to be so from the standpoint of method, orderly procedure and effective social control. The words of Joseph F. Smith, expressed at the time of his own accession (1901), have more than passing interest: "The First Presidency of the Church will first express their mind, thus indicating, at least in some degree, the mind of the Spirit and the suggestions from the head." [29] Following this "expression" the proposition to uphold the changes made were put to the Council of Twelve; then to all patriarchs present; then to stake presidencies and stake high councils (a body of twelve high priests who assist the stake presidency of three in each stake); then to all high priests present; next to all "seventies"

[28] Joseph F. Smith, *General Conference Report* (Special), October 1901, pp. 70-71 (also reproduced in *Gospel Doctrine*, pp. 214-216).

[29] *General Conference Report* (Special), October 1901, p. 73.

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(another high priesthood office); then to all elders, all bishops and all lesser priesthood officials.[30] Finally the motion was put to the whole congregation, all of which follows the usual procedure, as expressed by President Smith: "All the members of the Church present will have the privilege of expressing their views in relation to the matters which shall be proposed, by a rising vote and by the uplifted right hand."[31]

The effects of this method on the assemblage are thus cumulative, proceeding from the small and unified central authorities, down through more numerous groups to the people en masse. The voting is done in a most solemn manner. Negative votes are rarely seen, either in general or local conferences, and in practice (with the exception of general conferences or changes to be met locally), voting tends to be perfunctory and rather automatic.

The appointment of Apostles, to fill vacancies in the Twelve at other times than the death and passing of a president, is of deep significance. Apostles are nominated by the existing Church president and presented at the next conference for popular approval. In recent years there have been occasions when no special proposition was offered in filling the vacancy as was done in the early days of the Church.[32] Instead, the new nominee's name has been read "in-list" with his eleven seniors and the group sustained as a unit. Such a practice places the onus of rejecting all Twelve on the congregation, if the new appointee is unpopular. It is conceivable that only by such a "revolt" would the Seven, who constitute the First Council of Seventy, come into power as the governing council

[30] The ascending order of priesthood office (held by all men and boys over twelve years of age) is as follows: deacon, teacher, priest (young men twelve to twenty). These three offices constitute the lower or Aaronic order. Mature men may become, in turn, elders, seventies, or high priests; or may be called as high priests to be patriarchs, apostles, or presidents of the various subdivisions of the Church.

[31] *General Conference Report* (Special), October 1901, p. 73.

[32] Volumes 6 and 7 of the Utah *History of the Church* contain reports of general conferences when each member of the Twelve was voted on separately.

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of the Church, with power to reorganize the presiding quorums which were, by such action, popularly rejected. Such an event is only a remote possibility.

The influence of a president may remain with the Church long after his death, through the men he nominates to the Apostleship. Joseph Smith, as the original officer, was able to name eighteen Apostles.[33] The original Twelve (included in this number) were, however, selected, not directly by Joseph Smith, but by a nominating committee (in effect) composed of the three men most intimately associated with him in the preparation of the *Book of Mormon*[34] for publication.

Brigham Young as president was privileged to name ten Apostles; John Taylor, six; and Wilford Woodruff, five. Lorenzo Snow's brief presidency of three years afforded opportunity to name only two Apostles: Rudger Clawson, currently the successor-apparent to President Heber J. Grant; and Reed Smoot, for thirty years also a United States Senator from Utah. Joseph F. Smith, as sixth head of the Church, named eleven men to the Apostleship, including two of his sons. Six of these eleven, including the younger of the two sons, Joseph Fielding Smith (II), are currently serving. President Grant to date has had nine vacancies to fill.

Over the years, the bulk of the Apostles have been what might be called "career men" (i.e., men of long administrative experience) in the Church. As such, however, they were eminently frontiersmen and community leaders. For the most part, the typical "careerist" was appointed to the Twelve as a young man, approximately thirty years of age. Of the younger appointees, outside of the original Twelve selected in 1835, most have been either sons of presidents who nominated them, or close relatives of existing or dead leaders. President Grant, for example, is a son of Jedediah M. Grant, the trusted

[33] This figure should be enlarged to twenty-one if Smith's earliest associates are included.

[34] Oliver Cowdery, Martin Harris and David Whitmer. See fly-leaf and introduction to the *Book of Mormon*.

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counselor in early Utah days during Brigham Young's presidency; and he (President Grant) was made an Apostle at the youthful age of twenty-six. Aside from these appointments of unusual interest, nominees of the career type have usually been appointed after years of distinguished service to the Church, particularly in the missions. In a sense, the appointments of President Grant since his accession in 1918 have departed from the general practice only enough to illustrate the rule. Four of the nine may be said to represent the long-experienced, "career-service" type. The five others have included a university president, a university dean and physical scientist, a famous international lawyer and diplomat, a distinguished Utah jurist, and a prominent Utah engineer. Curiously, however, of these latter five, two have been the sons of former Apostles [35] and quite by coincidence (for the family was a large one!) two are husbands of granddaughters of Brigham Young.[36]

The Mormon people are taught to have faith and to believe, which they do, that these positions are filled by the right person at the right time, "according to the mind and will of the Lord." While it may be an unreliable indicator of the path which revelation always has followed, or will follow in the future, it is again interesting to observe that of forty-one Apostles named to office since the death of Joseph Smith, at least nineteen, or about 47 per cent, have been either direct descendants or close relatives of Apostles or members of the First Presidency of the Church.

The unique system for selecting, training and schooling authority here described (which really begins at infancy in the system of Mormon organization) does away, as the Mormons often claim, with any conflicts, political battles, or campaigns for high Church office. Most Mormons, while continuously engaged in one aspect or another of the great volunteer organ-

[35] Dr. Joseph F. Merrill, son of Marriner W. Merrill; and Sylvester Q. Cannon, son of George Q. Cannon.

[36] Dr. John A. Widtsoe and Dr. Albert E. Bowen.

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ization, do not seek appointments to bishoprics or stake presidencies, because of the sacrifice in time and labor. But few refuse, when the "call" comes; and the work is cheerfully if not enthusiastically performed in addition to regular, ordinary pursuits. Members of the Church are largely unconscious of any aspirations for high office. The writer has known several recent appointees who publicly and privately have stated that, had they been permitted to choose, they would not have selected their present responsibility as a lifework; and their reasons are most specific. This characteristic is difficult for the non-Mormons and political analysts, particularly those trained to look for the economic motive, to appreciate. It stems from the larger framework of Mormon doctrine and belief, which supports the system described, and can be understood only on that basis.

Because of the flexibility with which the Twelve and the First Presidency operate, there is little chance that the Mormon Church will ever be thrown into a state of confusion over the selection of a new president, or the choice of other persons to fill high vacancies. Some speculation is always current in the Church as to who will fill vacancies, when they will probably occur, and who may chance to "outlive" the rest to become, finally, president. The accompanying table indicates the present membership of the Twelve and the First Presidency (including Heber J. Grant, the incumbent), their respective ages, position of seniority and succession, age at ordination to the Apostleship, and secular status at time of call. George Albert Smith, who is the second ranking member of the Twelve, might reasonably be expected to become the next and eighth president, as he is only seventy-one and hence thirteen years younger than President Grant and Rudger Clawson, the Senior Apostle. Yet it would be most difficult to get a Mormon to predict, absolutely, that the succession would so occur. "Anything might happen", he probably would reply. "And besides, the Lord knows whom He wants to lead the Church."

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THE PRINCIPAL GENERAL AUTHORITIES OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

As of January 1942

Name	*Age*	*At Ordination*	*Status at Call*	*Seniority*
1. Heber J. Grant	85 (1856)	26 (1882)	Stake President	33
2. Rudger Clawson	84 (1857)	41 (1898)	Stake President	40
3. George Albert Smith..	71 (1870)	33 (1903)	Federal Office-Holder	43
4. George F. Richards ..	80 (1861)	45 (1906)	Farmer & Merchant	45
5. David O. McKay	68 (1873)	32 (1906)	Educator	47
6. Jos. Fielding Smith ..	65 (1876)	33 (1910)	Asst. Church Historian	49
7. Stephen I. Richards..	62 (1879)	37 (1917)	Attorney	51
8. Richard R. Lyman...	71 (1870)	47 (1918)	Engineer	52
9. John A. Widtsoe	69 (1872)	49 (1921)	Pres., U. of Utah	54
10. Joseph F. Merrill	73 (1868)	63 (1921)	University Dean	55
11. Charles A. Callis	76 (1865)	68 (1933)	Mission President	56
12. J. Reuben Clark, Jr...	70 (1871)	63 (1934)	Attorney	57
13. A. E. Bowen	65 (1876)	60 (1937)	Attorney	59
14. Sylvester Q. Cannon..	64 (1877)	62 (1939)	Presiding Bishop	60
15. Harold B. Lee	42 (1899)	42 (1941)	Mg. Director, Church Welfare Plan	61

For sources of data see *Improvement Era*, April 1935; Joseph Fielding Smith, *Essentials in Church History*, Appendix; *Priesthood and Church Government*, Appendices.

Of the fifteen listed, three have Ph.D. degrees, four have law degrees, two hold degrees in engineering. The universities of Göttingen, Columbia, Harvard, Johns Hopkins, Michigan and Chicago are all represented, in addition to the Utah schools of higher education.

A word remains to be said concerning the judicial system of the Church (assuming the position of the president, with his advisers and the Twelve, as chief legislator) and the external control of administration. We have seen that the organization of the Presidency of three, together with the theory which the Mormons have developed regarding procedure within a Presidency, constitutes an initial, political check on one-man rule—leaving out the idea of responsibility to God. Further, the close relationship of the president to the Twelve provides an additional important check — and conspiracy among these fifteen powerful, strong-minded men is unthinkable to those who know them best. As president the officer in charge is in

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reality "President of the High Priesthood" and, as such, is subject to the check of several hundred or more strong, local quorums of lay priesthood, composed of bankers, lawyers, doctors, professors, farmers, laborers, and others. Any of these quorums, or any member of the Church, has the power to institute proceedings in the system of Church courts [37] which Mormon organizational genius has developed. Thus any arbitrary action on the part of high officialdom is subject constantly to a powerful "public opinion" which is rooted in local, autonomous procedure. Outside observers often miss this point, or else are led to discount its importance because of the centralizing pattern of the central controls. The Mormon leaders do not discount it, however, and they may be said to comply faithfully with what C. J. Friedrich has called the "law of anticipated reactions". [38] There is thus a system of administrative controls, rooted in local practice and custom, extending from top to bottom, from core to periphery. This system, while permitting a highly flexible centralization, also effectively serves to channelize the flow of power.

But perhaps the most effective check of all, outside of the divine sanctions which are warp and woof of the whole fabric, is the implied threat of popular rejection, with that of judicial proceedings by which a president can be tried and removed, and perhaps excommunicated if need be. "Should the occasion ever arise that one of the First Presidency must be tried for crime or neglect of duty, his case would come before the Presiding Bishop with his [two] counselors, and twelve High Priests especially chosen for the purpose. This would be a tribunal extraordinary, from which there would be no appeal." [39]

[37] See chapter 17, *Priesthood and Church Government*, for an outline of the Mormon judicial system. These courts were the bane of lawyers in early Utah history as deterrent to private practice.

[38] C. J. Friedrich, *Constitutional Government and Politics* (New York and London, 1937), pp. 16-18.

[39] *Priesthood and Church Government*, p. 219.

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In such a trial, the twelve high priests referred to would probably be the Council of Twelve. This, practically, means that should a president violate his office, either the Twelve or the Presiding Bishopric would be in a position, practically speaking, to initiate proper proceedings, over which the great bishop could preside. A court of fifteen judges is thus constituted.

This "Presiding Bishop's Court" is the more significant because of the possible check given to the Presiding Bishop's Office (PBO in Mormon usage), through its handling of financial affairs, over decisions and actions of the Presidency.

Of course a member of the Presidency (a counselor) need not be tried to be removed. Refusal of the people to sustain an officer at a general conference is sufficient for mere removal. This has been done, usually, on the motion of the president himself, however, and perhaps would be a difficult matter in the case of removing a president who would not surrender the controls of a general conference to the next body of authority, the Twelve. All such possibilities, however, are far-fetched and not to be expected, no matter how carefully the Mormon system anticipates them. This may be said to be so because of the embodiment of large experience and progressive, if aging, wisdom in the careful selection of leaders. Finally, it is hoped that procedures developed over more than eleven decades provide constant means and popular devices for "purifying" administrative channels.

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GOVERNMENT CONTROL OF PUBLISHING IN GERMANY

THE fact that the National Socialist government is exercising extensive control over what is published in Germany is too well known to need restatement. Less is known, however, about the actual extent of this control, the organization of the control system, and its operation in practice.

Prior to the National Socialist revolution in 1933 the status of the right to publish was very simple. The Press Law of May 7, 1874[1] recognized in its first paragraph the principle of the freedom of the press[2] and merely prescribed certain rules for the exercise of this right; namely, the requirement that names of the publishers and printers be given, the obligation to publish government announcements, and so forth. The sole restrictive provision applied to the case of war or danger of war, when the publication of troop movements might be forbidden; the law also defined responsibility for criminal acts through publication. This law of 1874 has never been repealed; it was applied throughout the period of the German Empire, it continued in effect during the fourteen years of the Republic, and it continues to exist, in theory, though not actually, today.

The Republican Constitution of 1919[3] was most definite on the subject of the freedom of publication. In article 118 it is stated that

> Every German has the right, within the limits of the general legislation, to express his opinions freely by word, writing, printing, picture, or otherwise. . . .

[1] *Reichsgesetzblatt* (*RGBl*), p. 65,

[2] In this paper the word press is used in the broad sense, except where otherwise specified, thus including the publication of books.

[3] *RGBl*, p. 1383.

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> There shall be no censorship . . . . Legislative measures may be taken against obscene literature and for the protection of minors in the case of public displays and offerings.

Mention should also be made, however, of article 48 which provided that, in case the public security and order were considerably disturbed or endangered in the Reich, the President might temporarily suspend part or all of the civil rights guaranteed by the constitution, including that of the freedom of the press. It was this provision which in 1933 offered the legal basis for the introduction of control of publishing.

During the period of the Republic various laws and decrees were adopted which restricted the freedom of the press to some extent. Thus, the Law for the Defense of the Republic, of July 21, 1922,[4] provided that periodical publications might be suppressed for varying periods if they were inciting the use of force against members of a republican government, or if they were defaming such persons, or the republican form of government, or the state flag. Another Law for the Defense of the Republic, of March 25, 1930,[5] supplemented the provisions of the earlier law without substantially adding to them. Finally, a Presidential Decree for Defense against Political Excesses, of March 28, 1931,[6] permitted police measures against publications which advocated or incited disobedience of the laws and orders of the authorities; which defamed organs, institutions, authorities, or officials of the state or of a religious corporation; or which maliciously disparaged these. Furthermore, publications which in general endangered the public security or order might be suppressed by the police. Execution was left to the local authorities, but the Reich Minister of Interior was given authority to request police action at any

[4] *RGBl*, I, p. 585. This law was passed when a heated campaign by nationalist circles had culminated shortly before in the assassination of the then German Foreign Minister, Walther Rathenau, by a group of nationalist youths. See Harry Graf Kessler, *Walther Rathenau* (Berlin-Grunewald, 1928, 2d. ed.), pp. 353 *et seq.*

[5] *RGBl*, I, p. 91.

[6] *RGBl*, I, p. 79.

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time. The decree was promulgated under article 48 of the constitution.

This, then, was the legal situation before 1933: The freedom to publish was a definite, recognized right that extended to all matters except where the public order and security, military and otherwise, or the Republic might be deemed to be endangered.[7] Neither in law nor in practice was there ever any real government censorship,[8] and publication was never considered anything but a private affair over which the state had only such control as was absolutely necessary to safeguard certain aspects of the public welfare.

Into this picture the advent of National Socialism introduced radical changes. As early as 1920 the National Socialist Party had taken its stand on the subject of the right to publish. Point 23 of the party program, adopted on February 25 of that year, demanded "legislative combat against conscious political lies and dissemination thereof through the press." It furthermore demanded measures to make and keep the press German (meaning by that, free from Jewish influence) and the suppression of "newspapers which injure the public welfare". The program also demanded "legislative combat against a trend in art and literature which has a deteriorating influence on our life as a people." Point 24 stated that "the party is convinced that a lasting recovery for our people can come only from within and on the principle that the common interest is above individual interests."[9] Although these statements do not in themselves seem to predict the much more far-reaching changes which the National Socialists introduced when they reached power, they nevertheless indicate a real divergence from the principle of the freedom of the press as it is known in a liberal society. This divergence becomes the more ap-

[7] It should be pointed out that the legal measures governing the latter were adopted only when the Republic and its institutions were under serious attack.

[8] See, however, the law on obscene publications, *infra*, n. 72.

[9] Gottfried Feder, *Das Programm der N.S.D.A.P. und seine weltanschaulichen Grundgedanken* (Munich, 1931), p. 21.

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parent when we read what Hitler himself has written on the subject. In *Mein Kampf* he wrote in 1924: "It is in the paramount interest of the state and the nation to prevent these people [the reading public] from falling into the hands of evil, ignorant, or even malevolent educators. The state therefore has the duty to supervise their education and to prevent any mischief." [10] At another point he had said that the importance of the press "is truly enormous. It cannot be overestimated; it is indeed actually the continuation of the education of youth in a riper age." [11] He continued:

> Therefore it [the state] has to watch especially the press, for its influence is by far the strongest and most penetrating on these people, as it is applied not temporarily, but permanently. . . . Therefore, if anywhere at all, the state must not forget that particularly in this respect all means must serve an end; it must not let itself be misled by the boast of a so-called "freedom of the press" and must not be persuaded to fail in its duty but put before the nation the food that it needs and that is good for it; it must assure itself with ruthless determination of this means for educating the people and put it into the service of the state and nation.[12]

Under the liberal régime freedom of the press, laissez faire, had become, in the words of Propaganda Minister Goebbels, "undisciplined license which thereby gradually corrupted the national life of the people and threatened to destroy it." [13] Such a condition the state must prevent. But the state's responsibility goes further; it has the duty and obligation to employ the press in the service of the state and nation. Summing up the aim of the National Socialist program in the field of the periodical press, Dr. Ildephons Richter, director of the Reich Press Chamber, has made this interesting statement:

[10] Adolf Hitler, *Mein Kampf* (Munich, 1933), p. 264.

[11] *Ibid.*, p. 262.

[12] *Ibid.*, p. 264.

[13] Joseph Goebbels, *Signale der neuen Zeit* (Munich, 1934), p. 129.

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The new press law had to accomplish three things:

1. It had to develop the idea of the press and thereby assign to the press its proper place in the National Socialist state. The idea is this: that the press as an instrument of popular education becomes an instrument for guidance [*Führungsmittel*] in the service of the state and nation.

2. It had to make the operating method of the press secure. The method is this: a state press is not created, but room is given for free and voluntary coöperation under specific preconditions which assure the fulfilment of the tasks within the meaning of the idea of the press.

3. It had to find the new administrative form for converting the press into a fighting tool and placing it into the hands of the government, as well as for making those who are active in the profession into members of a fighting unit to enable them as a closed and purposeful group to act with discipline under the will of the leadership.[14]

Hanns Johst, President of the Reich Chamber of Literature, has been quoted as saying,

> The book trade must not use books as a means of private income but in the service of the Third Reich. . . . I will not tolerate a dictatorship of the buying public. The buying public is our people, and our people want to be and shall be convinced and led; that is the essential principle of our age.[15]

A very able reporter of German developments during the past decade has written, in describing the relation between press and government, that "the actual control over the German press rests on an ideological, a legal, and an administrative system, behind each of which stands the force of the State against which the individual is helpless."[16] The ideological

[14] "Das Neue Presserecht", in *Deutsches Kulturrecht* (Hamburg, 1936), pp. 63, 66.

[15] *New York Times*, October 26, 1936. See also Heinz Wismann, "Der Aufbau der Reichsschrifttumskammer", in *Deutsches Kulturrecht*, p. 54.

[16] Otto D. Tolischus, article in the *New York Times*, Magazine Section, May 2, 1937. Although Tolischus is speaking only of the periodical press, it

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system need not concern us here. It is the legal and administrative systems which are of tremendous importance.

When the National Socialists came to power on January 30, 1933, they could not at once offer by way of legislation a complete and orderly plan of institutions which would correspond to their political ideas. Their first task was that of consolidating and strengthening their position as a government beyond the possibility of collapse. In the field of the press, as elsewhere, their first measures were what might be termed transitional and of an "emergency" character. There were two measures of this kind. On February 4, 1933 a Presidential Decree for the Defense of the German People [17] was promulgated on the authority of article 48, the emergency article, of the constitution. This decree bore considerable resemblance to the decree of March 1931 cited above. In Section II, dealing with printed matter, it is provided that "Printed matter, the contents of which may endanger the public security and order, may be seized and withdrawn by the police" [par. 7 (1)]. Periodical publications were declared subject to suppression for periods of from one to six months for these reasons, among others: encouragement to disobedience of laws, incitement to violence or a general strike, defamation of organs or certain officials of the state, publication of "obviously false news reports which may endanger vital interests of the state", and so on. The authorities of the states of the Reich were charged with execution of the decree, for which no date of expiration was indicated.

The second, much more important, measure was another Presidential Decree for the Defense of the People and State,[18] promulgated on February 28, 1933, after the famous Reichstag fire. This decree was likewise based on article 48 of the constitution. It declared various articles of the constitution, among them article 118,[19] inoperative "until further notice.

will appear from the present study that his statement is applicable to all publications, including nonperiodical.

[17] *RGBl*, I, p. 35. It is interesting to note that it is no longer the Republic but the German people which is the object of the measure.

[18] *RGBl*, I, p. 83.

[19] See pp. 72-73, *supra*.

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Therefore limitations of personal freedom, of the right of free expression of opinion, including freedom of the press and of assembly, and violation of the secrecy of correspondence, post, telegraph, and telephone, as well as house searches, confiscation and limitations of property right are permissible even beyond the legal limitations otherwise applicable" (par. 1). The states of the Reich were charged with taking "the necessary measures for the restoration of public security and order", but the Reich government could step in if they should fail to do so. According to the preamble, this measure was enacted "to combat the communist acts of violence which might endanger the state." Although the danger of communist activity would appear to have passed after the National Socialists succeeded in consolidating their position, the decree has never been repealed.

What are the powers which the government assumed under this decree? Under the various laws for the defense of the Republic cited above, police measures against publications had been limited to an enumerated list of definitely specified contingencies, such as defamation of the state form and agencies, incitement to violence, and so on. In addition, court review for each police action was provided for. These characteristics may be found also in the decree of February 4.[20] The later decree dispenses with all limitations. The state is given complete power over the life and activities of the citizen, and there is no provision for judicial review. Under this decree hundreds of newspapers and periodicals were suppressed and their property confiscated in 1933. Although that era has now passed, the powers remain with the government ready for use at any time.[21]

[20] It should be pointed out, however, that, considering the National Socialist attitude toward the press, par. 7 (1) of the decree (quoted p. 77, *supra*) takes on a meaning much different from that of the same provision in the decree of March 1931 (*supra*, n. 6).

[21] On April 27, 1933 the creation of a secret state police in Prussia under the then Captain Hermann Goering was announced. Similar units were in that year set up in all the other states of the Reich, and all were united in 1934 under Heinrich Himmler, chief of the SS formations and of all German police.

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In the second phase of the National Socialist reorganization of publishing in Germany, three basic steps were taken. On March 17, 1933 the President issued an order for the creation of a Reich Ministry for Public Enlightenment and Propaganda.[22] The purpose of the ministry was stated to be "enlightenment and propaganda among the population concerning the policies of the Reich government and the national reconstruction of the German fatherland." The tasks and jurisdiction of the ministry were further clarified in a presidential decree of June 30, 1933.[23] According to this later measure the Propaganda Minister was charged with all tasks involving *geistige Einwirkung auf die Nation* (a more or less untranslatable expression meaning exertion of influence on the nation along intellectual, spiritual lines), propaganda for the state, culture and the economy, informing the public at home and abroad thereon, and the administration of all institutions serving these purposes. The minister was given jurisdiction *and legislative authority* over the following, among others: information, press, radio, art, music, theater, film, combat of obscenity, etc. Since its creation, the Propaganda Ministry has been headed by Dr. Joseph Goebbels. As a matter of fact, the new ministry, which was the first to be set up under the new régime, grew out of Goebbels' Reich Propaganda Division of the National Socialist Party. Both organizations continue under the leadership of Dr. Goebbels.[24]

Dr. Hans Schmidt-Leonhardt, Councilor in the Propaganda Ministry, has explained the basis for the creation and function of the ministry as follows: "The national will is the highest and governing law in the National Socialist state." In order that the government and the people should move in harmony

Völkischer Beobachter, January 23, 1936. The *New York Times* reported, April 28, 1933, that this police force, known more familiarly as the Gestapo, was operating under the decree of February 28, and that its attention was to be given to the press in particular.

[22] *RGBl*, I, p. 104.

[23] *RGBl*, I, p. 449.

[24] Hans Schmidt-Leonhardt, *Die Reichskulturkammer* (Berlin, 1936), p. 9.

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within the framework of the national will, two requirements must be fulfilled. The people must be led according to its real will, and the people must attain its real will. The former is the meaning of "popular enlightenment and propaganda". These terms, however, also include the "shaping of character and soul, and this means cultural policy. . . . The entire will-forming aspect of intellectual life belongs in this field." He continues:

> Therefore, shaping and leading the will, that is what the decree of June 30, 1933 means by the words *geistige Einwirkung* in summing up the task of the Reich Minister for Popular Enlightenment and Propaganda. It is the unifying factor in his particular tasks. . . . In this respect the most essential feature is the realization of the task in the permanent political shaping of the nation's will, political in the new National Socialist sense: that the nation's action and experience shall be created out of the pure substance of the character of the nation's soul. This is the new relation between the soul and politics, between culture and the state. It is the state that is bound to ideas which National Socialism opposed to the liberal, ideologically neutral state. And the binding idea is the national ideology as shaped by blood and soul.[25]

After the creation of the Propaganda Ministry the second step was the Law for the Creation of the Reich Chamber of Culture of September 22, 1933,[26] a measure which was more or less anticipated in the National Socialist Party program of 1920. Point 25 thereof reads as follows: "For the realization of this [program] [27] we demand . . . the formation of professional and trade chambers for the execution in the several states of the basic laws enacted by the Reich." [28] Schmidt-Leonhardt defines the corporate state structure as conceived in National Socialist thought as

[25] *Ibid.*, p. 9.

[26] *RGBl*, I, p. 661.

[27] This includes point 23 on the press (p. 74, *supra*).

[28] Feder, *op. cit.*, p. 21.

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> the condition wherein all labor and professional groups are joined and led in the community of the people as organized into a state, the condition, in other words, wherein the freedom of the individual and the supposedly natural contrast which he represents toward the state are replaced by a relationship of articulation and thus of the unity of people and state and of the private and the public task.[29]

From this structure the intellectual professions are not excluded.

> The film, the theater, the newspaper, and the book now appear as what they really were, the means for exercising spiritual and intellectual influence on the nation, the tools that shape the will and the character and educate . . . the entire people, which direct its will and thereby also its action, its fate. All these activities involve participation in tasks which the Reich had just assumed, tasks of popular enlightenment and propaganda, of education of the will, of cultural leadership. The members of these professions thereby necessarily entered into a working community with the government,

and a private task became a public one for the fulfilment of which the corporate structure is the form.[30] Schmidt-Leonhardt continues:

> The public task is therefore a certain defined function of the people. It is assumed by the individual professional worker, but in its relation to those who lead the people, that is, the government, it converges to a point. There results a certain vertical division of the entire people according to its activities and professions. Their leadership and administration are not from above, from out of the state leadership, but from below, from the professional and working life into the peak of the state leadership.[31]

[29] Schmidt-Leonhardt, *op. cit.*, p. 6.

[30] *Ibid.*, p. 11. The relationship between the state and a public task is that of articulating and leading. As regards the cultural activities, they are not a state function, but they have a status, as public tasks, between the former and purely private activity.

[31] *Ibid.*, pp. 11-12

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The basic law for this corporate structure of the cultural professions is the Law on the Reich Chamber of Culture which instructs and authorizes the Propaganda Minister to unite in corporations of the public law the members of the professions that are within the scope of his work (par. 1). Provision is made for the organization of six chambers, respectively of literature, press, radio, theater, music and fine arts (par. 2), these being united into a Reich Chamber of Culture in Berlin, which in turn is under the supervision of the Propaganda Minister (par. 5). The latter is given full power to issue legislative decrees and general administrative regulations for carrying the law into effect (par. 7).

On November 1, 1933, Dr. Goebbels issued the first and most important of these decrees.[32] It will be useful to examine it in some detail. Section I deals with the organization of the chambers. Various private professional organizations are thereby to be transformed respectively into the six chambers of the Reich Chamber of Culture and given the status of corporations of the public law (pars. 1 and 2). The Chamber of Culture was given the task "through the coöperation of the members of the professions embraced by it and *under the leadership of the Reich Minister for Popular Enlightenment and Propaganda* to promote German culture, . . . to regulate the economic and social affairs of the cultural professions, and to harmonize the efforts of its member groups" (italics mine) (par. 3). Section II deals with membership in the chambers. Paragraph 4 thereof reads as follows: "Whoever is engaged in the production, reproduction, mental or technical processing, distribution, preservation, marketing, or selling of cultural goods [*Kulturgut*] *must* be a member of the chamber which covers his activity" (italics mine). *Kulturgut* is defined as "any creation or achievement of art if it is presented to the public, and any other intellectual creation or achievement which is presented to the public by means of print, film, or radio" (par. 5). Membership is mandatory whether the particular

[32] *RGBl*, I, p. 797.

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activity is remunerative or not, and whether it is exercised by individual persons or by corporations, organizations, foundations of private law, by corporations or institutions of the public law, or by foreigners—in short, without exception.[33] The last paragraph in this section is of particular importance. It provides that membership in an individual chamber may be refused or existing membership therein voided "if there is evidence to prove that the person in question does not possess the necessary reliability or suitability for the exercise of his activity" (par. 10).

Section III contains the constitution of the Chamber of Culture, the essential features of which may be summarized briefly. The president of the Chamber of Culture is the Propaganda Minister, who may appoint deputies to act for him. The presidents of the individual chambers, who are appointed by the president of the Chamber of Culture (i. e., the Propaganda Minister), constitute an advisory council. In addition the president of the Chamber of Culture may organize a cultural senate to be composed of eminent artists, writers, etc., selected by him.[34] The administrations of the individual chambers consist of their respective presidents, assisted by presidential councils of at least two members, appointed, as are the presidents, by the Propaganda Minister, and administrative councils selected by the respective presidents from the professional groups composing the respective chambers. These latter councils are to be consulted on important questions and can make petitions.[35] The individual chambers are composed of the various professional groups or organizations, and membership in the chambers and in the Chamber of Culture is derived from membership in such professional organizations which have

[33] If the activity is only occasional, however, the president of the respective chamber may decide in individual cases that membership is not necessary (par. 9).

[34] A cultural senate was created on November 15, 1935. Schmidt-Leonhardt, *op. cit.*, p. 21.

[35] It is not known whether the councils exist now; by 1936 they had been dissolved. *Ibid.*

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been admitted to the chambers.[36] Membership in professional groups or organizations belonging to a chamber must be granted, if the applicant is engaged in the particular activity covered by the group and satisfies the legal requirements for the exercise of his profession; it can be refused only if he is "unreliable" or "unfit", the president of the respective chamber having the final jurisdiction on the latter question. The Propaganda Minister makes the by-laws of the Chamber of Culture[37] and must approve those of the individual chambers, which are drawn up by their respective presidents. The president of a chamber approves the by-laws of the groups in his chamber, and he may demand appointment or removal of the officials of professional groups and their subdivisions. The Propaganda Minister draws up the budget of the Chamber of Culture and approves those of the various chambers; he also can veto any measure taken by the latter.

The duties of the chambers are given in Section IV, paragraph 25 of which reads in part as follows: "The Reich Chamber of Culture and the individual chambers may determine the conditions for the operation, opening, and closing of enterprises in their respective fields, and they may make regulations concerning important questions in these fields, especially as regards the nature and form of the contracts between the groups comprised by them. . . ."[38] Miscellaneous provisions authorize the various presidents to levy fines, require the police to enforce paragraph 4 and the regulations under paragraph 25, when requested to do so, and require courts and administrative bodies to assist the chambers when necessary.

[36] The Chamber of Culture is not a federation of the various chambers or of the organizations belonging to them. Every person "culturally engaged" is usually a member of a professional organization and through that *directly* a member of the particular chamber and of the Chamber of Culture itself. In some cases where no professional organization exists for the particular activity a person will join the respective chamber directly. There has been a tendency to convert professional organizations simply into professional sections, *Fachschaften*, of the various chambers. Schmidt-Leonhardt, *op. cit.*, p. 20.

[37] None have been drafted, as they are considered "unnecessary". *Ibid.*

[38] The orders in virtue of this provision have the force of law; they have been compared to local municipal ordinances. *Ibid.*, p. 25.

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By decree of the Propaganda Minister on November 9, 1933,[39] the decree of November 1 was to go into effect on November 15, and all chambers were to be organized within one month. Before examining the structure and operation of the new system, however, it will be necessary to consider another basic law, the *Schriftleitergesetz* of October 4, 1933, which marked the third and final step in the National Socialist program which we are considering here. This law[40] deals with newspapers and periodicals only.[41]

The *Schriftleiter*, freely translated as journalist, is defined in the law as one who "participates in shaping by word, report, or picture, the contents [*geistiger Inhalt*] of newspapers or political periodicals published in the Reich territory", an activity which is termed a "public task regulated by the state in this law" (par. 1). Professional work in agencies furnishing material to newspapers is included (par. 4), and the law applies equally to newspapers and political periodicals,[42] irrespective of the process by which they are produced (par. 2).

To be engaged in the profession the *Schriftleiter* must have the following qualifications: German citizenship, possession of civil rights and eligibility to hold public office, Aryan descent, majority age, capability, professional training, and "possession of the qualities which the task of exercising spiritual and intellectual influence on the public demands" (par. 5). Actual admission to the profession is effected through registration in the professional list by the state organizations of the German Press Federation, the chairman of which must grant registration if the candidate has the qualifications. Registration may be refused if the Propaganda Minister so demands (par. 8). Only after registration in the professional list is the *Schrift-*

[39] *RGBl*, I, p. 969.

[40] *RGBl*, I, p. 713.

[41] A previous law (*ibid.*, p. 483) and decree (*ibid.*, p. 531) had "coördinated" the motion picture industry. Aside from the general law on the Chamber of Culture there are no other laws dealing with specific branches of cultural activity, such as literature.

[42] The Propaganda Minister decides what periodicals are political (par. 3).

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leiter entitled to practice his calling (par. 12), and the Propaganda Minister may order cancellation of registration "whenever he deems it necessary for urgent reasons of the public good" (par. 35).

Schriftleiter have the duty "to present truthfully and evaluate to the best of their ability the matters which they treat" (par. 13) and not to include in publications anything which by confounding individual and common interests misleads the public, which weakens the Reich, its culture and people, which is contrary to the honor and dignity of a German, which illegally injures the honor or welfare of another, or which is otherwise unethical (par. 14). It is provided that the profession as a whole is to supervise the fulfilment of their duties by individuals, aside from protecting their rights and welfare (par. 22). On the other hand, the Propaganda Minister appoints the president and the council and approves the by-laws of the Press Federation (par. 24) of which all (registered) *Schriftleiter*, even those living abroad, must be members, and which is a corporation of the public law (par. 23). Aside from other functions, the Press Federation is given that of establishing and maintaining professional courts which decide disputes concerning registration in the professional list and cancellation thereof, except where the Propaganda Minister himself has acted, and other controversies. The law also contains provisions respecting terms of employment and criminal acts.

By decree of December 20, 1933[43] the *Schriftleitergesetz* was to go into effect on January 1, 1934.[44] This decree also defined political periodicals as all those "which are not of a purely scientific or technical nature or the political character of which is denied by the Propaganda Minister for other reasons" (par. 10). Details regarding registration in the professional list were indicated, including the necessity of political reliability on the part of the *Schriftleiter*. On the latter point

[43] *RGBl*, I, p. 1085.

[44] Application to the periodical press of the law on the Chamber of Culture was postponed until then.

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a decree of May 31, 1938[45] specifically provides that "prior to any definite registration in the professional list the chairman of the state unit of the Press Federation must afford the *Gauleiter* [the chief of the National Socialist Party in each party district of the Reich] in the district in which the respective *Schriftleiter* resides an opportunity to examine the question whether the applicant is politically reliable."

It is useful, at this point, to summarize the situation prevailing under the new *Kulturrecht.*[46] First, anyone engaged in writing, illustrating or photographing for publication, or anyone engaged in the publication, distribution and disposal of such material to the public is deemed to be carrying on a public activity.[47] No one may exercise such an activity who is not a member, directly, or through a professional organization, of either the Reich Press Chamber or the Reich Literature Chamber, these being component parts of the Reich Chamber of Culture. The head of the latter is the Propaganda Minister, who, by virtue of the powers conferred on him by law, has complete control over the whole organization.[48] The Chamber of Culture and its organs in turn have complete legislative, executive and judicial jurisdiction over the professional activities of their members.[49] Still in effect are the "emergency

[45] *RGBl,* I, p. 613.

[46] The general term for the various laws relating to culture.

[47] In a decision of the Berlin Press Court of September 24, 1936 appears this interesting dictum: "The *Schriftleiter* is the bearer of public tasks and thereby assumes a status which is similar to that of an official." Quoted in *Zeitungswissenschaft,* 1938, p. 168.

[48] "The minister, in his capacity as president, is always in a position to exert more or less influence in specific instances on the administration of the individual chambers, and he makes use of this authority so far as necessary." Schmidt-Leonhardt, *op. cit.,* p. 23.

[49] In this connection a statement by Karl Heinl, Chief of the Administrative Division of the Literature Chamber, is of interest: "Thus the Chamber of Culture with its component chambers appears as the executor of the will of the state with respect to all the cultural manifestations of the German people. Therefore, like the corporate structure in general, it is not an institution within the state or even beside the latter; rather it is the state itself in its new form." From "Die Reichsschrifttumskammer und die berufsständische Eingliederung", published as Supplement No. 1 of *Die Bücherei,* 1934.

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decrees" of 1933 which authorize police action against any publication at any time and for any reason; and by decision of the Reich Chancellor the Propaganda Minister has been vested with the police powers granted by the various laws and decrees in so far as they may be applied within the fields under his jurisdiction.[50]

This brings us to the consideration of the actual structure and operation in practice of this whole system. Although the information available in this connection is not very extensive, it is sufficient to offer a fairly accurate and comprehensive picture. It will be apparent by this time what a vastly important position the Chamber of Culture has. As an organization it is in effect "a new kind of Reich Ministry".[51] The fact that the Propaganda Minister is its president indicates its significance. The control which the Minister exercises over the Chamber of Culture is even more impressive. We have seen above what provision the law makes in this direction. At this point we should mention a supplementary factor.

We refer to the *Landeskulturwalter*, freely translated as local cultural guardian, of which there is one in every *Gau* of the Reich.[52] These officials are the chiefs of the local offices of the Propaganda Ministry and at the same time Party Propaganda Chiefs in their respective *Gaue*. Their task as *Landeskulturwalter*, according to a regulation "to implement the unity of party and state" of November 12, 1934,[53] is "to

[50] Rudolf Heizler, "Das Wesen des Presserechts, II", in *Zeitungswissenschaft*, 1936, pp. 371-373. The author comments that in the National Socialist state it is impossible to conceive that any publication might endanger "the public security and order" (see the decree of February 4, 1933, p. 77, *supra*), but that this does not imply that police measures cannot be taken in case of published insults to heads of foreign states (see the cases of the *Stürmer* and of *Kladderadatsch*, p. 91, *infra*), degradation of German dignity, and for other reasons.

[51] Schmidt-Leonhardt, *op. cit.*, p. 21.

[52] *Ibid.*, pp. 22-23. The *Gau* is a party district, the boundaries of which are usually the same as those of a state (*Land*) of the Reich.

[53] *Das Recht der Reichskulturkammer* (Berlin, two volumes published annually), vol. 2, 1935, p. 25.

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exercise a unifying supervision over the local offices of the various chambers and the organizations and groups belonging to them." They are to assure "unity in the cultural work of the various regions and the development of a coördinated National Socialist cultural policy under the direction of the Propaganda Minister." They must see to it that the officials of the local offices of the chambers are "fit"; in this they coöperate with the *Gauleiter*, who in turn can send recommendations and protests to the chamber presidents concerning local personnel. The *Landeskulturwalter* are directly responsible to the Propaganda Minister as president of the Chamber of Culture, while the local offices of the chambers are, of course, responsible to their respective presidents. The chambers inform the *Landeskulturwalter* of important decisions, and if the latter have any objections they communicate directly with the minister. The *Landeskulturwalter* are informed of important matters and the essential affairs of all offices under their supervision. Thus, the control of the Propaganda Minister over the activities of the chambers would appear to be as perfect as could be devised; it goes directly in one direction through the chambers themselves and directly in another direction through the *Landeskulturwalter*.

As to other features of the Chamber of Culture itself, the earlier discussion of the law would appear to have outlined the situation sufficiently, and we can therefore proceed to examine the Press Chamber and Literature Chamber, together with the factors outside the chambers affecting periodical and non-periodical publication.

The Press Chamber, of course, unites all persons and enterprises in the field of periodical literature.[54] Its president is Max Amann, the director of the official National Socialist

[54] With the exception noted above, p. 83, note 33, and p. 86 (par. 10 of the decree of December 20, 1933). For details on the organization of the Press Chamber see *Handbuch der Reichskulturkammer* edited by Hans Hinkel (Berlin, 1937), section on "Die Reichspressekammer", pp. 209 *et seq.*, and Schmidt-Leonhardt, *op. cit.*, pp. 41 *et seq.*

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publishing house of Franz Eher, Nachfolger in Munich and also Reich Press Chief of the National Socialist Party. The vice president is Otto Dietrich, the Government Press Chief. The Press Chamber is composed of fourteen sections, listed here to show the extent of its jurisdiction.

I. Reich Federation of German Newspaper Publishers, 2,225 members.

II. Reich Federation of German Newspaper Publishers, 2,800 members.

III. Reich Federation of German News Agencies, 450 members.

IV. Catholic Denominational Press, 1,577 members.

V. Protestant Denominational Press, 533 members.

VI. Federation of the Radio Press, 43 members.

VII. Reich Federation of the German Press, 15,360 members. In view of the *Schriftleitergesetz* this organization, unlike the other sections of the chamber, is a corporation of the public law, and the Propaganda Minister has considerably more control over it than does the president of the Press Chamber. The Press Federation also has far more activities than the other sections of the chamber.

VIII. Employees of Publishing Houses, 4,000 members.

IX. Reich Federation of German Press Stenographers, 640 members.

X. Reich Federation for Promotion of Periodicals, 1,591 members. The members of this group are engaged in soliciting subscriptions and in delivery of periodicals.

XI. Reich Federation of German Owners of *Lesezirkel*, which are periodical lending services, 487 members.

XII. Federation of German Newspaper and Magazine Wholesalers, 181 members.

XIII. Newspaper and Magazine Retailers, 5,300 members.

XIV. Reich Federation of German Railroad Book Dealers, 127 members.

We need not consider in detail the various activities of the Press Chamber. As appears from the laws, the various cham-

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bers, including the Press Chamber, have full jurisdiction in *all* matters in their respective fields.[55]

A few examples illustrate the government's control of the periodical press in action. In 1934 the *Stürmer*, anti-Semitic organ of Julius Streicher, was suspended for two weeks for "insulting" the head of a foreign state when it published a story to the effect that President Masaryk of Czechoslovakia was half-Jewish.[56] In the same year the *Grüne Post*, a large rural organ of the house of Ullstein, was suspended for some time when its editor, Welk, wrote an open letter to the Propaganda Minister in which he made certain complaints concerning the inaccessibility of the ministry to the press for consultation, after the minister had spoken in criticism of the "aimlessness" and "lack of courage" of the nonparty press. Welk was forced out of his position after he had spent some time in a concentration camp, and the paper was reorganized.[57]

In 1935 an issue of the humorist weekly *Kladderadatsch* was confiscated on the order of the Propaganda Minister because it contained a cartoon of Mussolini which was held to be of a nature "to disturb the relations between Germany and Italy."[58] At about the same time the names of all editors who had permitted publication of a statement by the Archbishop of Breslau on exchange law violations by members of religious orders were expunged from the professional list. They were subsequently restored.[59] Somewhat before that Johann Schaefer, editor of the *Kölnische Zeitung*, was arrested and fined by a press court for publishing what he thought was

[55] The activities of the Press Chamber and of the other chambers are briefly described in the relevant sections of the *Handbuch der Reichskulturkammer*. See also Schmidt-Leonhardt, *op. cit.* The collection of orders and decrees in *Das Recht der Reichskulturkammer* also gives some indication along this line. The membership figures above are as of 1937, no later figures being available.

[56] *New York Times*, August 5, 1934.

[57] *Ibid.*, May 1, 2, 3, 9, June 9, 1934.

[58] *Völkischer Beobachter*, June 2, 1935.

[59] *New York Times*, June 5, July 4, 1935.

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the law respecting obligatory subscriptions; he did not know of a secret order which had changed the law.[60] The editor of the *Essener Volksblatt* was at one time sentenced to imprisonment for mistakenly reporting that a certain person had been pardoned when in fact he had been executed.[61]

Countless other examples can be cited along this line. Between January 1933 and the end of 1934 hundreds of leftist newspapers and periodicals were suppressed. Periodically, religious and semireligious publications were banned. Other publications, such as the Ullstein and Mosse newspapers, were "reorganized" quietly, and in this connection the rôle of the National Socialist Party and its armed formations is not to be underestimated.[62]

This kind of control is, however, more or less negative. A more positive one is exercised through the medium of the press conference in the Propaganda Ministry itself.[63] Every important newspaper in Germany has a representative in Berlin, and once every day, and more often if there are important developments, these representatives gather in the Propaganda Ministry, where they are given instructions concerning the treatment to be accorded to various news items. They are told what to suppress, what is to be played up or played down, and what general attitude they are supposed to take with respect to certain questions.[64] Criticism or commendation, as the case may be, for treatment of the preceding days' material is freely given by the particular propaganda official. The conferences

[60] *Ibid.*, March 27, May 24, 1935.

[61] *Ibid.*, May 25, 1935.

[62] See, *inter alia*, "The Press in Germany", in *The Banker*, February 1937, pp. 145-152.

[63] See Ernst Albert, "The Press in Nazi Germany", in *Contemporary Review*, December 1938, p. 695; Albert was press attaché of the former Austrian legation in Berlin. See also Tolischus, *loc. cit.*, and *The Nation*, August 14, 1937, p. 179.

[64] It has been stated that German correspondents abroad must keep in constant touch with German diplomatic missions, which give them instructions of the same nature. Albert, *loc. cit.*

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are secret, and revelation of the proceedings to any but those who are supposed to be informed of them, i.e., the editors of the various newspapers, is said in one case to have cost a newspaper representative penal servitude for life. The newspapers of lesser importance in the provinces receive their instructions from the local offices of the Propaganda Ministry.[65] One of the important features of these instructions issued by the Propaganda Ministry is that they cannot be lightly disobeyed. In 1936, for instance, the editors of the *Frankfurter Zeitung* and the *Berliner Tageblatt* were dismissed because they incurred the displeasure of the Propaganda Ministry in this respect.[66]

Finally, a word must be said about the German News Agency, *DNB*. This agency grew out of the merger on January 1, 1934 of *Wolff's Telegraphen Büro* and the *Telegraphen Union*, the two leading German news agencies. *DNB* has usually been termed "the official German news agency", and this does not appear to be out of line with the facts. The agency in fact has a monopoly in the distribution of news in Germany.[67] It is "privately" owned, but it is understood that the government subsidizes it. Through it exclusively the government releases all its communiqués; *DNB* also is used by the Propaganda Ministry for transmitting instructions of lesser importance to the press.[68] In view of these circumstances *DNB* may be considered to be practically an agency of the government and hence a means for controlling the news at its source.[69]

[65] The writer has been unable to learn whether the Propaganda Ministry exercises the direct influence over magazines which it does over the daily press.

[66] *New York Times*, December 24, 1936.

[67] One National Socialist editor has hailed the creation of one single large agency in the form of *DNB* as the final step in the process of making over Germany's press. Karl Goebel, *Totaler Staat und Presse* (Heidelberg, 1936), p. 43.

[68] Tolischus, *loc. cit.*

[69] Apart from the government control exercised by reason of this relationship, there is also the control through the Press Chamber, to which *DNB* belongs, and the Propaganda Ministry press conference, to which it sends its representative.

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As regards the publication of nonperiodical literature, the main factor is, of course, the Literature Chamber.[70] Like the Press Chamber it is organized in distinct divisions, and we shall briefly indicate their composition. Division I is the administration. Division II comprises the authors, about 11,000. Division III includes the book trade and is divided into various sections, as follows: publishers, about 2,000; dealers, middlemen, 5,000; lending libraries, 3,000; sellers, employees, 9,000; social service, and educational problems in the book trade. Section I, the publishers, has an interesting "Consulting Office for Popular Literature" which resulted from the merger of advisory offices in various fields of the Literature Chamber. It is now a general advisory office, its object being "in the first instance to prevent economic waste arising from the printing of harmful or undesirable literature."[71] The function of the Consulting Office can best be understood in the light of its historical background. In 1926 there was enacted a law to protect minors from obscene literature.[72] This law provided for the organization by the Reich Minister of Interior in cooperation with the various state governments of a number of examining offices, the function of which was to set up lists of publications the display of which and sale to minors under eighteen years were to be thereafter forbidden. Imprisonment, fine and confiscation of the publication were to result from illegal display and sale. It will be recalled that the decrees of 1933 greatly expanded the confiscatory powers of the police. With the organization of the Literature Chamber these powers came to be exercised more and more only on the advice and suggestion of this body.[73] Then, on April 10, 1935, the gov-

[70] For details of its organization and activities, see *Handbuch der Reichskulturkammer*, pp. 135 *et seq.*, and Schmidt-Leonhardt, *op. cit.*, pp. 37 *et seq.*; also the volumes of *Das Recht der Reichskulturkammer*. The membership figures which follow are as of 1937.

[71] *Handbuch der Reichskulturkammer*, p. 148.

[72] *RGBl*, I, p. 505.

[73] Schmidt-Leonhardt, *op. cit.*, p. 39.

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ernment repealed the law of December 18, 1926. We quote the preamble of the repealing law [74] because it sets forth the underlying principle of the new system.

> In the defense against harmful literature of *any kind*, the National Socialist state possesses for the protection therefrom not only of youth but of the *entire people*, a far more effective means in the Law on the Reich Chamber of Culture and in the institutions of the Reich Literature Chamber derived therefrom, than the liberal state possessed in its Examining Offices [italics mine].

Subsequent to the law of April 10, 1935 the Literature Chamber issued an order on April 25 giving expression to the new situation.[75] In the order one of the duties of the Literature Chamber is stated to be "to keep German cultural life free of all harmful and undesired literature." Accordingly, the chamber thereafter was to keep a list of all books and writings "which endanger the National Socialist cultural will." Distribution of such matter in any manner is forbidden. Books and writings deemed harmful to minors only and which cannot be sold to minors under eighteen years or displayed were to be entered on a second list. The penalty for illegal acts under this order ranges from fines to expulsion from the Literature Chamber. The Consulting Office referred to above is designed simply to prevent the printing of material which would subsequently have to be entered on the forbidden list. A somewhat similar office, the Supervisory Office for Lending Libraries, is attached to Section IV, lending libraries, of Division III, book trade. By order of the Literature Chamber of April 6, 1935 [76] this office was ordered "to purge all lending libraries of undesired literature", and in this it is bound by the lists referred to above.[77]

[74] *RGBl*, I, p. 541.

[75] *Das Recht der Reichskulturkammer*, vol. 2, 1935, p. 91.

[76] *Ibid.*, vol. 3, 1936, p. 122.

[77] *Handbuch der Reichskulturkammer*, p. 150. The lists are prepared with the coöperation of the Propaganda Ministry.

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Other divisions of the Literature Chamber are those of book promotion, libraries, directories and economics, the latter dealing with export problems. It is obvious that the Literature Chamber includes in its membership the whole field of writing, publication and dissemination of nonperiodical literature.

Actual instances of interference by the government proper of the Literature Chamber in the publication or dissemination of nonperiodical matter are varied and numerous enough to indicate complete control. An interesting picture is provided in this connection by Dr. Heinz Wismann, a high official of the Literature Chamber. Speaking of the earlier period of National Socialist Germany, he says:

> When, after the National Socialist revolution, the new state had the task of purging the literary heritage of the liberal era of all that was destructive and poisonous, an appeal to the trade was sufficient to effect this purging without the knowledge of the public and without resort to the police machinery. Basing himself on a list prepared by the respective expert authorities, the Chairman of the Association of Book Dealers, calling attention to the honor paragraph of the constitution, informed the publishers in question that the named works could not in future be marketed, because the marketing of these works could not be reconciled with the sense of responsibility of the trade and its duty toward the people. It is to the honor of the German book trade that the response to this request was immediate and unconditional. . . .[78]

Published instances of banned books include a variety of subject matter. Thus, in 1933 Professor Ewald Banse's *Wehrwissenschaft* was banned because "isolated sentences and passages from it have been quoted abroad to throw suspicion on Germany's peaceable disposition."[79] In 1934 the government forbade further circulation of a propaganda book on the Saar because it undertook to contrast French squalor and "race

[78] Heinz Wismann, "Der Aufbau der Reichsschrifttumskammer", in *Deutsches Kulturrecht*, pp. 54, 58. See also *New York Times*, May 17, 1933.

[79] *New York Times*, October 21, 1933.

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pollution" with more desirable conditions in Germany.[80] Somewhat later a book on racial research by one H. Gauch was suppressed supposedly because its conclusion that all races, including the Italian and other Mediterranean races, but excepting the Nordic race, were derived from apes "could hardly be the result of serious racial research." [81] In 1936 the Gestapo was ordered to seize all available copies of the works of Thomas Mann, book dealers and publishers being forced to surrender their stocks.[82] The next year German publishers were forbidden by the Propaganda Ministry to publish any works by the Swiss theologian Karl Barth.[83] The writer has personal knowledge of the confiscation by the secret police of all available copies of a pamphlet which sought to expose the machinations of a certain industrialist to gain control of or otherwise destroy the competition of a rival firm.

With the passage of time the rôle of the police has declined and this, of course, is in line with the aims of National Socialist policy.[84] It is the Chamber of Culture, and its component chambers, the Propaganda Ministry, and, in the last analysis, the National Socialist Party which now handle the matter of control simply in the course of administration. That being so, the evidence of control becomes decreasingly apparent, but that government control is there on a vast scale the examination of the respective laws and institutions has shown.

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[80] *Ibid.*, November 19, 1934.

[81] *Ibid.*, December 8, 1934.

[82] *Ibid.*, December 5, 1936.

[83] *Ibid.*, April 7, 1937.

[84] Wismann, *loc. cit.*, p. 60; Heizler, *loc. cit.*, p. 373; Schmidt-Leonhardt, *op. cit.*, p. 42.

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ENEMY ALIEN INTERNMENT: WITH SPECIAL REFERENCE TO GREAT BRITAIN AND FRANCE *

TO deprive of their liberty civilians of enemy nationality, residing or merely staying within the territory of a belligerent state, had become practically obsolete—at least as a measure applied on a large scale—long before the outbreak of the first World War.[1] In order to find earlier instances of such a procedure one has to go back to the period of the French Revolution and the Napoleonic era.[2] The French Convention issued a decree (1793) which, *inter alia*, ordered all British subjects, found at that time in France, to be taken as prisoners of war and held as such until the conclusion of a peace. Like this measure of the Convention, Napoleon's decree of 1803, designating as prisoners of war all Englishmen between the ages of eighteen and sixty, resident in France, was issued not as a normal incident of belligerency but in retaliation for alleged English violations of international law. At the Second Hague Peace Conference (1907) a Japanese proposal for theoretical limitation of the rights of a belligerent with respect to alien enemy internment was rejected, lest an obsolete practice be revived.[3]

* This article was written prior to the Japanese attack on Pearl Harbor.

[1] The concentration camps established by the British during the South African War were exceptions to normal practice.

[2] On July 6, 1798, Congress, anticipating war with France, passed an act which, in a revised form, served as the legal basis for internment of enemy aliens in the United States during the first World War. Charles Cheney Hyde, *International Law* (Boston, 1922), vol. II, pp. 226 *et seq.*

[3] See *Proceedings of the Hague Peace Conferences*, edited for the Carnegie Endowment for International Peace by James Brown Scott (New York, 1921), vol. III, pp. 110-114, 124, 125, 243, especially the remarks made by Mr. Bernaert during the Conference.

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During and after the first World War, a period marked by general return to a practice previously abandoned, various writers stressed the deficiency of the existing rules of international law concerning the treatment of civil internees. The Prisoners of War Committee of the International Law Association submitted to the Thirty-third Conference of this distinguished body, held in 1924 at Stockholm, an elaborate draft of "Regulations for the Treatment of Civilian Prisoners of War". An exhaustive study of the topic in question and the formulation of an international convention on it were furthermore recommended in 1929 by the Geneva Conference regarding the treatment of prisoners of war. The Fifteenth International Conference of the Red Cross (Tokyo, 1934) adopted unanimously a pertinent draft-regulation and recommended it to the attention of the various governments. Its interesting provisions were to be submitted to a diplomatic conference which the Swiss Federal Council had announced for the beginning of 1940. The outbreak of hostilities prevented the meeting of this conference,[4] and consequently this draft did not become an international convention. Its fate was not unlike that of an American-German Agreement which had been signed during the first World War at Berne (Switzerland), on the very day of the armistice with Germany, but which was never ratified by the United States.

The International Red Cross Committee, at the beginning of the present war, suggested that the belligerent governments should adopt, in their respective procedures, the main prin-

[4] See *Work of the International Red Cross Committee and of the Central Agency for Prisoners of War since the Outbreak of War*, pamphlet published in Geneva in 1940, p. 29.

[5] "Agreement between the United States of America and Germany concerning Prisoners of War, Sanitary Personnel and Civil Prisoners", reprinted 13 *American Journal of International Law* (1919), Suppl., pp. 43 *et seq.* See also Raymond Stone, "The American-German Conference on Prisoners of War", *ibid.* (1919), pp. 406 *et seq.*; Chandler P. Anderson, "Agreement between the United States and Germany Concerning Prisoners of War", *ibid.* (1919), pp. 97 *et seq.*; and Hyde, *op. cit.*, II, pp. 333 *et seq.*

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ciples endorsed by the Tokyo Convention of 1934.[6] This remarkable effort, made by the proper international organization, does not alter the fact that upon the outbreak of the second World War the important matter under consideration had not yet been settled by generally accepted conventional, as distinguished from customary, rules of international law.

Since 1939 a novel feature, the problem of the anti-Nazi and anti-Fascist refugees, particularly acute in England and France, has aggravated considerably the existing difficulties concerning enemy aliens. England and France alike were faced with the delicate situation of the alien who, though technically of enemy nationality, should for obvious reasons be regarded as friendly "in sentiment" or "in spirit" toward the powers fighting against nazism and fascism.[7]

It was argued, on the one hand, that "fugitives from injustice" undoubtedly desired the defeat of Hitler and Mussolini, since no other rational or emotional approach to the present war was possible for them. On the other hand, serious doubts concerning these "fugitives" were engendered by the "fifth column panic" which reached its peak after the German occupation of the Netherlands. Ugly stories were circulated to the effect that genuine refugees were giving aid to the promoters of the "new world order", while other rumors told of Nazi agents masquerading as refugees from occupied territory. Thus was the status of the enemy alien subjected to scrutiny in an atmosphere that might be described, in the

[6] See *Revue Internationale de la Croix Rouge*, 1939, pp. 741 *et seq.*, especially p. 745 (circular letter of September 2, 1939); and *ibid.*, 1940, p. 8 (second memorandum of December 7, 1939); also pamphlet cited in n. 4, *supra*.

[7] See, among others, Robert M. W. Kempner, "The Enemy Alien Problem in the Present War", 34 *A.J.I.L.* (1940), pp. 433 *et seq.*, esp. pp. 449-452; Sir Norman Angell, "Refugees Can Be Assets", *The Nation*, September 15, 1940, pp. 236 *et seq.*, esp. p. 237; *idem*, "We and the Refugees", *Aufbau*, November 15, 1940; Argus, "Friendly Enemy Aliens", *The Contemporary Review*, January 1941, pp. 53 *et seq.*; Norman Bentwich, "England and the Aliens", *The Political Quarterly*, January–March 1941, p. 83; F. Lafitte, *The Internment of Aliens* (New York, 1940), pp. 11 *et seq.* See also the term "Involuntary German Nationals", referred to in *Aufbau*, December 5, 1941, p. 4.

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words of an eminent American lawyer on another occasion, as a state of mind in which "no report is too improbable, no theory too extravagant, no hypothesis too unreal for belief." [8]

Internment Policy in Great Britain

With regard to the policy of enemy alien internment, as applied in Great Britain, three periods have to be distinguished: the months before the German spring offensive of 1940; the "fifth column panic" which extended until the end of July 1940; the subsequent period, marked by a gradual return to a more liberal policy. That some serious blunders occurred in the course of this development has been stressed not only in sharp Parliamentary criticisms and other British commentaries, but also in benevolent appraisals by foreign observers. Nevertheless, it remains true that, in the initial period, the British government by ingenious and fair methods managed to steer midway between a too lofty humanitarianism and an excessive concern for the purposes of national defense. Subsequently, the British people did not permit a few errors committed by their government in the treatment of "friendly enemy aliens" to blunt their sense of humanitarianism. Instead, they successfully urged a modification of policy. Furthermore, the debates on the topic in question, held in both the House of Commons and the House of Lords, during this critical period of British history, will forever remain on record as evidence of the high achievement of the "mother" and "teacher" of parliaments in maintaining freedom of speech and opinion, even in a time of utmost emergency.[9]

At the outset of the second World War, the British government interned immediately only those few enemy aliens—male and female alike—who were included in the "Security List" as obvious agents or sympathizers of the Nazi régime; the vast majority remained at large, subject to certain minor police

[8] John Bassett Moore, *International Law and Some Current Illusions* (New York, 1924), p. 4.

[9] There is a competent appraisal of these debates in W. Ivor Jennings, *The British Constitution* (New York, 1941), pp. 194, 195.

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restrictions. The broad lines of policy to be followed were announced in a statement which Sir John Anderson, then Secretary of State for the Home Department, made on September 4, 1939 during a debate in the House of Commons.[10] It contained the following remarkable passages:

> . . . A large proportion of the Germans and Austrians at present in this country are refugees, and there will, I am sure, be a general desire to avoid treating as enemies those who are friendly to the country which has offered them asylum. At the same time, care must be taken to sift out any persons, who, though claiming to be refugees, may not, in fact, be friendly to this country . . . examiners will sit not only in London, but in the provinces, and each of them will examine all cases in the district assigned to him with a view to considering which of these can properly be left at large, and which should be interned or subjected to other restrictions. . . .

In consequence of this policy 112 alien tribunals were established all over the country, with a view to examining the individual features of each case. If the alien was found to be a real enemy, and not merely a "passport national of an enemy country", he was marked as "A" and thereby doomed to internment. If his political character appeared not clear enough for a definite classification of his sentiment, he was graded as "B", indicating a doubtful case which involved certain restrictions for the affected individual.[11] The person whose loyalty toward the Allied cause had been proved beyond any doubt was certified as belonging to category "C" and thereby released from any restriction which his legal status might otherwise have caused. He was also outwardly cleared from any stigma by an official endorsement, "refugee from Nazi oppression", on his certificate. In semi-official parlance

[10] 351 H. C. Deb., 5th ser., cols. 366 *et seq.* (In this article all references to these Debates are to 5th series.)

[11] These restrictions concerned especially: traveling more than five miles from their residence, and possession of certain articles (cameras, motor cars, etc.).

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he was called, somewhat paradoxically, a "friendly enemy alien".

The British government thus developed a system which did not treat as real enemies all persons who had to be regarded technically as enemy aliens. The character test, derived from the political pedigree of the individual in question, was more important, in this connection, than the legal "status". As to the latter, the "enemy alien" brand was not always derived from the person's citizenship (nationality); in the case of stateless persons, that is of persons without nationality in a legal sense of the term, it was determined by the person's domicile prior to his coming to Great Britain.[12]

Without going into the details of the organization and function of these "alien tribunals",[13] which were a novelty not only for Great Britain but for the whole world, we must mention some of their essential features. The Home Secretary appointed, in consultation with the Lord Chancellor, nearly a hundred men with legal experience—members of the bench and members of the bar—as one-man courts for the review of all cases in the areas assigned respectively to each of them. London was divided into several such areas. To each tribunal there was to be attached a representative of the voluntary organizations for refugee-relief, acting as a kind of "liaison-officer". In all cases of discontent the avenue was open for an appeal to the Home Secretary; but that official referred each doubtful case to one of the appeals advisory committees, whose opinion, though not binding upon the Home Secretary, was practically decisive for the individual concerned.

This system generally worked to the satisfaction of all who were interested in a reasonable solution of the delicate problem. The alien tribunals discharged themselves of their task in a relatively brief time,[14] and their most serious, if unavoidable,

[12] 351 H. C. Deb., col. 548; and Bentwich, *loc. cit.*, pp. 83, 84.

[13] For further details consult London *Times*, September 26, 1940.

[14] They completed their work by the end of January 1940 with the remarkable result that from many thousands of refugees whose cases had been investigated by the tribunals only 486 were to be interned.

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shortcoming seems to have been a certain lack of uniformity in handling analogous cases.[15]

The picture changed, however, in the spring of 1940, when the so-called "*drôle de guerre*" or "phony war" shifted to a "blitzkrieg", bringing home to the British Isles the danger of invasion. At the same time the "fifth column panic",[16] setting in immediately after the German conquest of Norway and since then continuously increasing, exerted a strong influence on the mode of dealing with such problems. "Intern the lot!" became a popular slogan.[17] Reluctantly the government, as a result of pressure from the military side,[18] gave way to this tendency, but it did so gradually. The first step in the new direction was thus announced in the House of Commons' debate of April 23, 1940 by the Undersecretary for the Home Department, Mr. Peake:

> . . . The case of every German and Austrian in this country has been reviewed by local tribunals, and a further review of certain categories of aliens is at present being undertaken by Advisory Committees appointed for each Civil Defense Region. The onus is on every person of German or Austrian nationality to show cause why he should not be interned, and the policy is to intern any German or Austrian if there is doubt as to his attitude and disposition towards the Allied cause.[19]

[15] For favorable appraisals of their activity see: Sir Cecil Thomas Carr, *Concerning English Administrative Law* (New York, 1941), p. 101; Argus, *loc. cit.*, pp. 54, 55; and the remarks of a "Legal Observer" in *Spectator*, March 15, 1940, pp. 355, 356.

[16] For a lengthy and very interesting discussion of the events in various Nazi-invaded countries, rightly or wrongly attributed to the "fifth column", see the debate of May 23, 1940 in the British House of Lords. Parliamentary Debates, House of Lords, vol. 116, cols. 411 *et seq.*

[17] *Cf.* Colonel Burton's remark in 360 H. C. Deb., col. 33, and Captain Shaw's suggestion in 361 H. C. Deb., cols. 295, 296.

[18] Mr. Anderson's reply to the letter of the Archbishop of Canterbury is in London *Times*, July 24, 1940; Lafitte, *op. cit.*, pp. 177 *et seq.*

[19] 360 H. C. Deb., col. 32. This "second opinion" was not binding upon the Home Secretary, *ibid.*, col. 366.

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The modified policy amounted substantially to the internment of persons in the doubtful category who had hitherto been subject to minor restrictions only. In pursuance of this program twelve regional advisory committees, one for the area of each civil defense region, were appointed. Each was composed of a chairman with legal qualifications and a panel of lay members selected from prominent residents of the affected region. When sitting to hear cases, the committee was to consist of the chairman and two lay members drawn from the panel. This "second review" had to cover enemy aliens placed in category "B", all enemy aliens resident in the "protected areas", and any in category "C" about whom the police felt some doubt.[20]

Scarcely had this new system begun to operate when the panicky call for wholesale internment achieved a further success. About the middle of May 1940, the Home Secretary ordered the internment of all male enemy aliens between the ages of sixteen and sixty—"infirm and invalid" excepted—who belonged either to category "B" or, though classified as "C", were resident in the "coastal zone" on the east and southeast coasts, extending from Nairn to Hampshire. A still further step toward "general internment" was taken on May 27, 1940, when the internment of category "B", Germans and Austrians, was extended to women.[21] Finally the age limit for men was raised to seventy, and, in addition, the chief constables were authorized by the Home Secretary to arrest for internment any German or Austrian classified as "C" and any such alien, even if residing outside of protected areas, "about whose reliability the chief constable feels doubt from the point of view of national security."[22]

Thus the climax in the development from quasi-judicial decision to discretionary, probably in some instances arbitrary,

[20] Parliamentary Debates, House of Lords, vol. 116, col. 429.

[21] See "The Female of the Species", in *Birmingham Post*, May 28, 1940.

[22] 362 H. C. Deb., cols. 222, 223. What the discretion of the police meant in practice appears from Bentwich, *loc. cit.*, pp. 89, 90.

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control by police authorities was reached. It is interesting to note, in terms of chronology, that the "general internment" was decided upon on June 21, 1940, the tragic day of the collapse of France.

But this did not remain the final situation. Public opinion, turning sharply critical, brought strong pressure to bear on the government. From characteristic utterances made during the Parliamentary debates, we may single out a few for quotation.

The Lord Bishop of Chichester remarked on August 6, 1940, in the House of Lords:

> I would ask noble Lords who are judges and lawyers to note this point, that principles have been laid down in the past for the treatment and for the internment of enemy aliens—that is "passport nationals" of enemy countries. Those principles are not applicable to refugees and a belligerent nation adhering to such obsolete methods toward refugees brands material friends as formal enemies. Wholesale internment or deportation of refugees as if they were enemy aliens is therefore an arbitrary act. . . .[23]

Mr. Wedgwood observed on August 22, 1940, during a debate in the House of Commons:

> Every nation is divided into two different schools of thought, one school on our side and the other school on the Nazi side. It is out of date to talk of enemy aliens. . . . If I was asked from where the danger will come if the Germans invade this country, I would not say from the German Jews. . . . The danger would come from the Fascist party, from people who were defeatists, and from people who have nothing to lose if Hitler comes here. . . .[24]

To be sure, the idea of wholesale internment also found defenders among the members of Parliament. In the House

[23] Parliamentary Debates, House of Lords, vol. 117, col. 125.

[24] 364 H. C. Debs., cols. 1561-1564; for subsequent remarks of Mr. Wedgwood to the same effect, 367 H. C. Deb., cols. 465 *et seq.*, esp. 470.

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of Commons (August 22, 1940) Mr. Pickthorn endorsed this policy by the following, rather bold argument:

> If an archangel appeared before all the members of the War Cabinet at once and said, "There is one red-headed man in England who, unless care is taken, will do something to injure the State," I think it would be the duty of the War Cabinet to see that all red-headed men were interned. . . .[25]

Yielding to the pressure of an opinion, overwhelming at least by its moral weight, if not also numerically, the government began gradually to modify its general internment policy, even though maintaining it in principle. As late as July 23, 1940, Mr. Anderson, for the first time announcing substantial modification of the plan, submitted to the House of Commons "that there can be no question at the present time of reverting to a position in which the internment of men of enemy nationality shall be the exception rather than the rule."[26] But he considerably watered, as it were, the system of wholesale internment by establishing, as a new scheme counteracting it, an elaborate program for wholesale releases of internees, to be classified for this purpose in specified "categories".[27] Even Mr. Anderson's successor in office, Mr. Morrison, denied, for reasons of expediency rather than of principle, the possibility of reverting to the initial system of internment merely on the ground of specific suspicion raised with regard to the affected individual.[28] Be this as it may, the replacing of general internment with a vengeance by a more moderate system of the same kind worked beneficently and allowed the release of a substantial number of interned "friendly enemy aliens".[29]

[25] 364 H. C. Deb., col. 1567. For Earl Winterton's similar attitude, see *ibid.*, col. 1540; for an analysis digging into Mr. Pickthorn's fallacy, see Lafitte, *op. cit.*, p. 209.

[26] 363 H. C. Deb., col. 587. See also Mr. Anderson's great speech of August 22, 1940, 364 H. C. Deb., cols. 1545-1547.

[27] According to Bentwich (*loc. cit.*, p. 91), these were known as "Anderson's fairy tales", because "the grounds for release remained narrowly restricted and the practice of release painfully slow." See also, Argus, *loc. cit.*, p. 59.

[28] 367 H. C. Deb., col. 79.

[29] See, for instance, the figures submitted by Mr. Peake in his statement of January 22, 1941, 368 H. C. Deb., cols. 179, 180.

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In a White Book—Cmd. 6217—published on July 31, 1940, applicable only to Germans and Austrians classified as "C", the government established eighteen "categories" of specified conditions which made internees eligible for applications for release to be addressed to the Undersecretary of State, Aliens Department. It was expressly stated that "the release of a person who falls within one of the categories may nevertheless be refused on security grounds," and that other categories may be added as a result of a review to be undertaken by a special committee, which will be mentioned later. By way of illustration we may single out several categories: concerning "persons under 16 and over 70 years of age",[30] relative to the "invalid or infirm"; regarding "internees who are accepted for enlistment in the Auxiliary Military Pioneer Corps"; referring to "persons about to embark for emigration overseas"; providing for "special cases of extreme hardship". A revised edition of the White Book, marked Cmd. 6223 and published late in August 1940, extended the eligibility for release under this system to certain Germans and Austrians in category "B" and to Italian internees.[31] Furthermore, it added the striking category 19 referring to "any person as to whom a Tribunal, appointed by the Secretary of State for the purpose, reports that enough is known of his history to show that by his writings or speeches or political or official activities he has consistently, over a period of years, taken a public and prominent

[30] In the first (August 1940) revision of the White Book this was changed to "over 65 years of age".

[31] The clause, as finally revised, reads as follows: "The same categories of eligibility for release and the same procedure will apply, so far as applicable, to Italian internees. *Category 19 will, in the case of Italians, be applied to opponents of the Fascist system.* Since, however, there has been no classification by Tribunals of the Italian population such as has been undertaken in the case of Germans and Austrians, applications for release by Italian internees who come within one or other of the categories will be referred to an Advisory Committee appointed by the Secretary of State for the purpose of advising him whether any such applicant can be released without prejudice to the interests of national security." Italics in White Book.

On the internment policy concerning Italians, see also Parliamentary Debates, House of Lords, vol. 117, col. 263; 365 H. C. Deb., col. 1431, and 367 H. C. Deb., cols. 76-78.

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part in opposition to the Nazi system and is actively friendly towards the Allied cause." [32]

A further revision of the White Book, Cmd. 6233,[33] published on October 21, 1940—when Mr. Morrison had succeeded Mr. Anderson in office—added the highly important categories 20-22, respectively relating to "persons of eminent distinction" in the field of art, science, learning or letters;[34] students qualified in a specified way; and "any person as to whom a Tribunal, appointed by the Secretary for the purpose, reports that he has, since his early childhood, or for at least 20 years, lived continuously, or almost continuously in the United Kingdom; that he has long severed connection with his country of nationality; that his interests and associations are British; and that he is friendly toward this country." From the text of the last mentioned category 22, and likewise from others, it follows that loyalty or friendship toward the Allied or toward the British cause was or is in itself not a sufficient ground for release from internment, a fact critically mentioned by Lord Cecil in his broadcast of November 1940.[35]

For the purpose of advising the Home Secretary on questions of internment policy proper, especially the creation of new categories of persons eligible for release, there was set up an advisory committee under the Chairmanship of Justice Sir Cyril Asquith, commonly called "The Asquith Committee".[36]

[32] For the previous attitude of the government toward *active* anti-Nazis or anti-Fascists, see 362 H. C. Deb., cols. 1016, 1234, 1319; Parliamentary Debates, House of Lords, vol. 117, col. 123; Lafitte, *op. cit.*, pp. 78 *et seq.*, esp. pp. 79, 84, 127; and the pamphlet, *Anderson's Prisoners*, published by an undisclosed author under the pseudonym "Judex", as Victory Book No. 7 (London, 1940), pp. 21, 38 *et seq.*

[33] For the three editions of the White Book, see *The Law Journal*, volume 90 (July to December 1940), pp. 56, 84, 184.

[34] For the appointment of special advisory committees with regard to category 20 and the somewhat germane one 8, see 367 H. C. Deb., cols. 1049, 1050.

[35] Referred to by Bentwich, *loc. cit.*, p. 91.

[36] This should not be confused with another body, established at the same time, namely the Advisory Council, attached to the Refugee Department of the Foreign Office, with Lord Lytton as chairman. The function of the Advisory Council pertains mainly to the arrangements to be made for the welfare of those detained in internment camps.

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Upon recommendation of this committee there has been added —according to an announcement made by Mr. Morrison on November 26, 1941 [37]—"a new category providing for the release of men who, being by reason of age or physical unfitness ineligible for the Pioneer Corps, can satisfy a tribunal that they are opposed to the Nazi or Fascist systems, that they are positively friendly toward the Allied cause, and that they will remain steadfast toward that cause in all circumstances." [38]

A special point which aroused discussion was the policy concerning release of internees in connection with their being accepted for enlistment in the Auxiliary Military Pioneer Corps.[39] In answer to various objections, voiced in this respect,[40] spokesmen of the government pointed out that "it is quite impossible to justify having young men of alien origin hanging about with nothing much to do . . . when British boys are taken from their families to serve overseas" [41] and that, "if men are part of a disciplined military force, the dangers to security are very much less." [42]

Another point heatedly discussed after the tragic occurrence connected with the ill-fated Blue Star liner, *Arandora Star*,[43]

[37] 367 H. C. Deb., cols. 79, 80.

[38] The age limits for the enlistment in question are 18 and 50; concerning conscientious objectors see *ibid.*, col. 83.

[39] As to the excellent record of the aliens who served in France with the British Auxiliary Military Pioneer Corps, see the statements of Lord Croft, in Parliamentary Debates, House of Lords, vol. 117, col. 238, and of Lord Davies, *ibid.*, col. 386; also a pertinent dispatch from London, published in *New York Times*, February 1, 1941. By the end of May 1940 female "friendly enemy aliens" obtained the privilege of entering the ranks of the British Auxiliary Territorial Service.

[40] See, for the nature of such objections—apart from 352 H. C. Deb., col. 2096—Mr. Anderson's statement of November 2, 1939, in 367 H. C. Deb., cols. 77, 82, 83; and Argus, *loc. cit.*, p. 59.

[41] 364 H. C. Deb., col. 1582.

[42] 367 H. C. Deb., col. 83.

[43] This liner was torpedoed on July 2, 1941, with nearly 1,500 German and Italian internees on board, including anti-Nazis and anti-Fascists. Lafitte, *op. cit.*, pp. 123 *et seq.*; *Anderson's Prisoners*, p. 21; Argus, *loc. cit.*, p. 57.

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was the overseas deportation of some enemy alien internees, transported for further custody to British Dominions, particularly to Canada and Australia. Their release *de jure*, as it were, falls within the jurisdiction of the British government. But their being granted liberty in the territory of the Dominion concerns the latter too, particularly from the angle of its immigration regulations, and needs therefore the concurrent assent of the Dominion government, obtainable only in rare instances. Apart from these exceptional cases, the *de facto* liberation of an internee deported to Canada or Australia is feasible only in the event of his simultaneous emigration to a friendly country, e. g., the United States, or his retransportation to Great Britain. The latter, however, is granted only for considerations connected with the British national defense, particularly for purposes of volunteering in the Auxiliary Military Pioneer Corps.[44]

So much for the basic spirit of the British enemy alien internment policy. We may now turn to the treatment which has been meted out to such internees. In this connection it must be remembered that they are not prisoners of war, and that they, therefore, do not fall within the scope of international conventions for the protection of such prisoners.[45] But it has become *en vogue* to grant civilian internees as a minimum standard, *mutatis mutandis*, all the privileges, with the exception of those not reasonably applicable, to which prisoners of war are internationally entitled.[46] As this usage has not yet assumed the force of customary international law, the treat-

[44] 367 H. C. Deb., cols. 444 *et seq.*, and 461 *et seq.*; *Manchester Guardian*, "A Survey of Refugee Grievances", February 25, 1941; letter of the Canadian Senator Wilson, published in *New York Herald Tribune*, May 11, 1941. Particularly about Mr. Higgs's suggestion concerning the "desirability of transporting internees and prisoners of war to places remote from the British Isles in order to prevent cooperation with enemy aircraft and parachutists", see 361 H. C. Deb., cols. 751, 752.

[45] H. Lauterpacht's sixth edition of L. Oppenheim's *International Law* (London, 1940), vol. II, pp. 299, 300.

[46] Art. 17 of the Tokyo Convention, and the Canadian regulations referred to in *Revue Internationale de la Croix Rouge*, 1940, pp. 456-458, esp. p. 457.

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ment of civilian internees is still determined by domestic law in any given country.[47] On October 24, 1939, a spokesman of the British government declared in the House of Lords:

> Civilian enemy aliens interned under the *Prerogative* are not covered by the terms of the International Geneva Convention relative to the treatment of prisoners of war of July 27, 1929, which has been ratified by His Majesty's Government. Nevertheless the treatment of civilian internees in the United Kingdom will not be less favourable than that accorded to prisoners of war.[48]

Considerations of space preclude a lengthy discussion of the execution of the internment policy, especially the condition of the respective camps which has been described by various writers from different points of view.[49] That serious blunders have been committed in carrying out the policy has been admitted frankly even by competent governmental spokesmen [50] and by other members of Parliament, approving the policy itself.[51] To be sure, the gravest causes of complaint were of a transient nature, caused by insufficient preparedness for the developments occurring in the wake of the "fifth column panic", and they, and some others of a more particular nature, were speedily and thoroughly removed when the cold light of reason returned.[52]

[47] E. J. Cohn, "Legal Aspects of Internment", *The Modern Law Review*, vol. 4 (1941), pp. 201, 202.

[48] Parliamentary Debates, House of Lords, vol. 114, col. 1482. For a similar statement on behalf of the Dominions, see 363 H. C. Deb., col. 593.

[49] See, among others, Lafitte, *op. cit.*, pp. 91 *et seq.*; *Anderson's Prisoners*, pp. 67 *et seq.*

[50] Said Mr. Anderson on August 22, 1940: ". . . I am not here to deny for a moment that most regrettable and deplorable things have happened in the execution of the internment policy. They have nothing to do with the merits of the policy. . . ." 364 H. C. Deb., col. 1542.

[51] See *ibid.*, cols. 1538, 1539 (Earl Winterton), and Parliamentary Debates, House of Lords, vol. 117, col. 108 (Lord Farington).

[52] That credit must be given to the British for their treatment of enemy alien internees appears *inter alia* from the report in *Revue Internationale de la Croix Rouge*, 1940, pp. 821, 825. Concerning an important change in the British

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Internment Policy in the British Empire, with Special Reference to Canada and Trinidad

The policy of enemy alien internment applied in the British Dominions, colonies and areas under mandate was far from being a cliché after the pattern of the regulations and practices obtaining in Great Britain. In all these territories the proper authorities acted autonomously in a way which they deemed appropriate for the given regional situation. We may consider two of the countries belonging to the great framework of the British Empire: one for its strict adherence to the principle of internment on a selective basis only, and the other for its application, during a brief period, of the opposite method.

The outlines of Canada's scheme were described by her Minister of Justice during a debate in her House of Commons, on May 23, 1940.[53] In keeping with the recommendation which was submitted by a committee appointed in March 1938, for the purpose of preparing the Dominion's prospective policy with regard to enemy alien internment, Canada interned, upon the outbreak of the present war with Germany, only such persons who were suspected of Nazi activities or Nazi feelings.[54] An analogous attitude seems to have been adopted

administration of the camps for male internees (shift from military to civil administration, which formerly obtained only for the camps of female internees), see 362 H. C. Debs., col. 1321; Parliamentary Debates, House of Lords, vol. 114, cols. 1478, 1481, 1482; and especially 363 H. C. Deb., cols. 587, 588; and 365 *ibid.*, col. 102. The treatment of friendly enemy aliens, deported to Canada, and detained there at the disposal of the British government, had been previously improved by the establishment of special camps for "refugee internees". See *New York Herald Tribune*, May 11, 1941, and *New York Times*, July 1, 1941.

[53] See, Canada—Debates of the House of Commons, 1940, pp. 143, 144, 146. For the different problem with regard to internees deported from Great Britain to Canada, see *ibid.*, pp. 216-218.

[54] In a private communication which the present writer received from Carl M. Herlick, barrister and solicitor in Toronto, Canada, it is said: "Refugees who entered legally—that is, who obtained a permit permanently or temporarily—were not interned."

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with regard to persons of Italian nationality or Italian origin when their native country entered the war.[55]

Throughout the British Empire the internment of persons regarded as "friendly enemy aliens" was generally avoided. In Australia and British India there were certain deviations from this rule, but Trinidad (British West Indies) was the outstanding exception. After an initial policy of internment on a selective basis only, the government of Trinidad ordered, in June 1940, the general internment of all enemy aliens between certain ages, including German and Austrian refugees. Fortunately, this was modified in July 1941 when a system of categories, classifying the internees according to their eligibility for release, was established, obviously after the model of the British White Paper. On the recommendation of an "investigating committee" many persons who were interned in June 1940 have been released.[56]

French Internment Policy

At the very outset of the second World War, a policy of wholesale internment extending to practically all enemy aliens of male sex between specified ages, resident or staying in French territory, was established and carried out with some not unavoidable harshness. Decided upon prior to August 26, 1939, it did not exclude, at least not in principle, refugees from Nazi oppression. Various explanations have been submitted *ex post facto* for the somewhat puzzling fact that *la terre classique du droit d'asile* acted in this way. The possible existence of spurious refugees[57] does not seem to be conclusive to the point of justifying immediate wholesale internment, instead of a preliminary sifting process, especially during the quiet "*drôle de guerre*" ("phony war") period. One of

[55] See London *Times*, June 13, 1940, p. 5 (b).

[56] This statement is based on a private communication which the present writer received from Port of Spain (Trinidad).

[57] So said the Minister of the Interior, Monsieur Sarraut, in his parliamentary speeches to be mentioned later.

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the non-official explanations makes an impressive point,[58] but most of them are obvious oversimplifications. The present writer believes that the French internment policy was predetermined by pressure from military quarters which manifestly did not grasp the fundamental difference between this war and the first World War.

Be this as it may, the following was the course of events. As early as September 4, 1939, the French government announced a general round-up and wholesale internment of all German "ressortissants" of male sex between the ages of 17 and 50. Two weeks later this measure was extended up to the age of 65. Persons whose French papers bore the indication "indéterminé"[59] were exempted. Anti-Hitler refugees and Nazi sympathizers alike found themselves herded together in badly improvised concentration camps which had officially the euphemistical denomination of assembling camps—"camps de rassemblement". Some segregation, though no real distinction, was established, within the scheme of the camp discipline, with regard to ex-Austrians as distinguished from Germans proper, former French Foreign Legionaries, and Saarlanders.[60] A real discrimination was made against persons who, rightly or wrongly, were suspected on specific charges. These "suspects" were avowedly given more severe treatment than those whose internment represented, even in the eyes of some French authorities, merely a strange creation of red tape.[61]

[58] *It refers to the surprise and embarrassment caused by the unforeseen* Stalin-Hitler pact and its possible influence upon the attitude of Soviet partisans who, formerly full-fledged anti-Nazis, might have changed their minds in following Stalin's novel policy. See in this connection Curt Riess's letter to the Editor, *Aufbau*, January 19, 1940.

[59] *This included not only persons whose nationality could not be ascertained,* but also those who had lost citizenship.

[60] These were persons who had to leave their home country in consequence of their conspicuous pro-French attitude in the days of the plebiscite determining the definite fate of the Saar territory. See Lion Feuchtwanger, *The Devil in France* (New York, 1941), p. 31.

[61] Life in a *camp des suspects* has been most vividly described by Arthur Koestler in *Scum of the Earth* (New York, 1941), *passim.*

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The initial internment on a wholesale basis, which included even famous anti-Nazi writers, was to be followed by a sifting process, purporting to weed out the really dangerous persons and to liberate the others. This so-called "triage", or "criblage", fell within the scope of two sets of special commissions, the regional ones and the central one, the latter called the Interministerial Commission. To be released immediately were those persons whose internment had not been ordered by the government, but was the result of blunders by subordinate officials.[62] Some special privilege, even though differing according to places and periods, was given to the infirm internees, called "incapables". Not immediately, but after a certain time, the legal and factual possibility of emigration overseas was acknowledged as a title for liberation, or at least for transportation to a *camp d'émigration* where the individual was detained until his actual embarkation.[63] Also privileged with regard to release, were internees whose wives or children held French citizenship papers, or whose fathers or sons served with the French army. All the others could, in principle, apply for liberation on the general basis of sponsorship letters (*lettres de garantie*) issued by prominent persons, preferably French citizens, testifying to their loyalty toward France. But, somewhat inconsistently with the official justification of the internment policy, the release of such internees, refugees or others, who were not older than forty-eight and had not been declared physically unfit, was not allowed on the basis of their political reliability. They had but one alternative: either to remain interned for the duration or to volunteer for the French Foreign Legion (*Légion Etrangère*), a professional corps notorious for its extremely severe discipline under Africa's burning sun, which accepted enlistment only for a definite period of five years. This last

[62] This applies, for example, to the case of persons interned in spite of their *indéterminé* papers.

[63] Embarkation was as a rule allowed only as from a French port, a principle which considerably restricted the available possibilities of departure.

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mentioned difficulty was later eliminated so that the internees in question could enter the Foreign Legion with a commitment for the duration only. But as a rule they were not accepted into normal formations of the French army, made up of foreigners, so-called *régiments de marche* or *bataillons de marche*. Only the ranks of the Foreign Legion proper which accepted also fugitives from justice were open to those internees who were "fugitives from injustice".[64]

The "triage" system worked very slowly and unsatisfactorily during the first months of the war. Life in the French concentration camps was extremely hard, in spite of the humane spirit in which the authorities in charge of the camps tried to compensate for physical discomfort by displaying a large amount of good will.[65] Personal hardships were aggravated for the internees by the serious financial consequences of internment and by the infelicitous fate of their families.

Gradually the truth of the situation leaked out through the rigid censorship to the French people. Particularly effective was Deputy Marius Moutet's article, published on November 17, 1939 in the noted periodical *La Lumière*. He made a convincing case for those victims of nazism who, only nominally enemy aliens and accepted by France as political exiles, faced the bitter reality of internment in full-fledged concentration

[64] This is an aspect obviously neglected by Thomas Kernan, in *France on Berlin Time* (New York, 1941), pp. 187, 188, in spite of his own remark, made in a previous passage of his book (p. 144) that "the French army's famous Bataillon d'Afrique" "was made up of conscripts with criminal records, who were not allowed to serve in the regular units". See, in this connection, Heinz Pol's and Eric H. Lessing's letters to the Editor of the *New York Times*, December 7, 1941, p. 30, and December 14, 1941, p. 20. Some of the refugees, first morally "impressed" for the French Foreign Legion, became after the collapse of France engaged in "voluntary labor service" for the building of the trans-Saharan railway.

[65] Ernst Erich Noth, *L'Allemagne exilée en France* (Paris, 1940), is the first account of life in a French concentration camp given by a professional writer who experienced it himself. Other descriptions referring to later periods have been submitted by Leo Lania in *The Darkest Hour* (Boston, 1941); Heinz Pol, *Suicide of a Democracy* (New York, 1940); Arthur Koestler, *op. cit.*; and Lion Feuchtwanger, ***op. cit.***

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camps. The public discussion, thus initiated, continued[66] and reached its climax during a memorable debate in the French Chamber of Deputies which took place on December 8, 1939.[67] The Minister of the Interior, Monsieur Sarraut, defended the principle involved in the policy of the government, but admitted that serious blunders in the mode of carrying it out had occurred. He promised relief, particularly a substantial acceleration of the "triage". Monsieur Sarraut subsequently, on December 26, 1939, made a similar statement before the French Senate.[68]

The promised speeding up of the "triage" became reality. Consequently most of the "friendly enemy aliens" were again at liberty about January 1940. But those up to the age of 48 were, as a rule, bound to enter immediately the ranks of the *formations de prestataires*, a uniformed auxiliary corps, organized and disciplined by the military authorities.[69] The establishment of the said *formations de prestataires*, announced in a decree of January 13, 1940,[70] was only the unnecessarily delayed carrying out of a French decree of April 12, 1939,[71] which subjected male aliens without nationality and other male "aliens enjoying the right of asylum",[72] between the ages of 20 and 48, to the liability of performing, even in peace time, quasi-military duties to be more specifically determined by administrative regulations. Some of these units of *prestataires* were annexed to the British expeditionary corps in France.

[66] See particularly, with regard to interned Austrian refugees, the editorial in *Figaro*, November 23, 1939, signed by Wladimir d'Ormesson, which supplements his previous editorial concerning the Austrian problem as a whole, *ibid.*, September 14, 1939.

[67] *Journal Officiel*, Chambre des Députés, 1939, pp. 2120 *et seq.*, esp. p. 2120 (Moutet), p. 2121 (Sarraut), and p. 2133 (Grumbach).

[68] *Ibid.*, Sénat, 1939, p. 724.

[69] Pol, *Suicide of a Democracy*, pp. 252-260, and Feuchtwanger, *op. cit.*, p. 96.

[70] *Journal Officiel*, January 18, 1940.

[71] *Ibid.*, April 16, 1939.

[72] "Étrangers bénéficiaires du droit d'asile."

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French internment policy was again changed as a result of the impact of "fifth column" hysteria. A new round-up with wholesale internment of enemy aliens, including refugees who had previously been released after "triage", was ordered by Monsieur Mandel, who succeeded Monsieur Sarraut as Minister of the Interior. It began, on May 14, 1940, within the Préfecture de la Seine, which included Paris, and was very soon extended to other parts of France. The age limits at first were 17 and 55; but after two weeks the upper limit was raised to 65. The new order included women, save those who had to care for a child younger than 17. In contrast with former practice, *indeterminés*, and even *prestataires*, fell within the scope of the internment measure. Saarlanders again had to share the fate of being treated as "enemies". Austrians were at first included, almost immediately thereafter excluded, and soon reincluded; it was an aftermath of the confusion which existed throughout the whole period concerning the treatment to be meted out to ex-Austrians, as distinguished from Germans.

The second general internment of enemy aliens, carried out almost simultaneously with the collapse of France, created even more hardships than the first and ended with a tragedy for those internees who, being on a German "black list", had to be delivered to the Nazis in consequence of the Armistice of Compiègne, art. XIX. To be sure, the term "Germans" in this article could, and perhaps should, be construed, in terms of law, as inapplicable to those who were *ausgebürgert;* that is those who had been formally and radically deprived of their German nationality.[73] But the victors paid little attention to such legal niceties.

In July and August 1940 all alien internment camps situated in occupied France[74] were visited by so-called "Kundt Com-

[73] Feuchtwanger, *op. cit.*, p. 181.

[74] In the French areas occupied by Germany all alien internment camps were liquidated upon the approach of the German occupation forces. There remained then only the camps situated in the unoccupied zone, e.g., at Gurs, Nimes, Le Vernet, Les Milles.

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missions".[75] They looked for internees who were on the "black list", and requested their surrender.[76] Furthermore, they obtained immediate liberation of all those internees who, unlike the refugees, considered themselves as full-fledged Germans, loyal to the Nazi régime. Others, particularly exiles not included in the German "black list", were largely ignored. Exit visas (*visas de sortie*) issued by the French authorities were tolerated by the German Armistice Commission, at first individually, and then through a general procedure.[77] Thus, some of the internees were lucky enough to exchange life in the French concentration camps for migration to the United States. Apart from this liberation by way of emigration, the French authorities granted release to those who were either physically unfit for the camp conditions or who could prove the possession or availability of means for self-maintenance.[78]

We must now return to pre-armistice events, in order to point out some peculiar features of the internment situation. It is interesting to note that upon Italy's entry into the war on June 11, 1940, France did not order an indiscriminate internment of all Italian residents, but detained only those who were looked upon as individually suspect. The others, that is the bulk, were left a free choice between pledging their loyalty to France, thus placing themselves at the disposal of the French civil and military authorities, and being interned. This option applied to all males between the ages of 17 and 60.[79]

[75] Called so after the German General Kundt who was in charge of those commissions.

[76] Fortunately most of them had already managed to escape the "trap" and many French people, including subordinated officials and officers, seem to have extended help to this end. Among the internees thus saved were persons who had been sentenced to death, in their absence, in Germany.

[77] We are, of course, passing over the details concerning this exit-permit arrangement which has been changed frequently during the period under consideration.

[78] Release on this ground was not granted in every instance; it was rather a matter for the discretion of the local French authorities.

[79] "Avis aux Italiens", in *L'Ouest-Eclair* (Rennes), June 11, 1940.

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Another peculiarity was the fact that many German and Austrian refugees, resident in the Netherlands and Belgium, respectively, who had crossed the border into France after the Nazi occupation of these countries, were arrested, interned and distributed among the various enemy alien camps.[80] They shared the lot of those refugees who, apprehended and detained as enemy aliens in Belgium after the German onslaught,[81] were dispatched across the frontier into France, either to save them from falling into German hands[82] or to prevent spies and traitors from joining the invading army. These Belgian internees, transported en bloc to France and remaining there in a state of captivity, at the expense of the Belgian government in exile, presented the gloomy aspect of "internees in exile".

Theoretically, the French government, like the British, accorded to civilian enemy alien internees most of the privileges enjoyed by prisoners of war. An important instruction to this effect was issued by the Minister for the National Defense and the War on March 15, 1940.[83]

Alien Enemy Internment in Germany and in Occupied France

A German decree of September 5, 1939,[84] relative to the "treatment of aliens" contained important regulations for enemy aliens, especially with regard to their registration and their residence. It furthermore provided that the police authorities should have discretion in taking additional measures of precaution, including arrest of such aliens and their confinement in concentration camps, without the right of appeal. It

[80] *The American Jewish Yearbook*, vol. 42 (1940), p. 450.

[81] Belgium proceeded on May 10, 1940 to the round-up and general internment of all enemy aliens of male sex and between certain age brackets, not discriminating according to real political sentiment as distinguished from technical nationality status.

[82] *The American Jewish Yearbook*, vol. 42 (1940), pp. 334, 335.

[83] *Revue Internationale de la Croix Rouge*, 1940, pp. 262, 263, and 385 *et seq.*

[84] *Reichsgesetzblatt*, 1939, Part I, pp. 1667-1669.

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was expressly stated that the decree affected not only nationals of enemy countries, but also persons without nationality, who, at the time of losing their citizenship, had been nationals of a country now hostile; in addition, all persons whose nationality was in doubt were to be considered enemy aliens.

It is difficult at the present time to determine precisely how these regulations were put into effect. Upon the outbreak of hostilities with Poland, Germany interned thousands of Polish civilians and sent them to concentration camps administered after the fashion of Dachau.[85] At variance with this cruel treatment meted out to Poles, the nationals of France and of Great Britain at first were interned only on a selective basis,[86] but subsequently they were subjected to wholesale internment, allegedly as a measure of retaliation against the treatment of German civilians in France and Great Britain respectively.[87]

We turn now to France under the Nazi yoke. One of the bitter consequences of German occupation was the treatment of British people on French soil as enemy aliens. All British men of military age,[88] were interned immediately upon the entry of German troops into the various occupied zones. In addition, British subjects over and under specified ages, men and women alike, had to report at brief intervals to the French police in the respective precincts in which they lived.[89] They

[85] M. W. Kempner, "The Enemy Alien Problem in the Present War", 34 *A.J.I.L.* (1940), pp. 452, 453.

[86] *Revue Internationale de la Croix Rouge*, 1940, p. 259. For a report about the inspection of a German camp for civilian enemy alien internees, see *ibid.*, pp. 975 *et seq.*

[87] See in this connection an AP dispatch from Berlin, dated January 18, 1941, stating that 1,500 British subjects had been interned in various German camps, whereas a "considerable number of Britons, mostly women", were still at large in Germany.

[88] This did not include, on this occasion, Dominion subjects, especially Canadians, and colonials, according to oral information of Thomas Kernan covering most of the present statement concerning occupied France.

[89] *Commissariat du quartier.* There was, of course, at least one member of the German military police (*Feldpolizei*) assigned to each French police station. All the measures recounted in this section were executed ostensibly by French police, but really under German orders.

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were forbidden to move beyond a small area consisting of their own precinct and the contiguous ones.

This was only the first act; soon there came a change for the worse. The escape of British officers, detained as prisoners of war in the Val de Grasse hospital, allegedly engineered by an old English gentleman and some British women in Paris, was the reason, or at least the official pretext, for the internment of all British subjects of male sex, irrespective of their age.[90] The measure was put into effect in early November 1940. It had been prepared by a German order, announced on October 15 over the radio and published on October 17 in the *Verordnungsblatt fuer die besetzten Gebiete*.[91] According to this order any British subject over 15 years of age had to be denounced, to the nearest German military command, by the person giving him shelter. The sanctions against any contravention of this decree extended all the way up to the death penalty.

The third, and at present the final, act of this relatively minor drama within the framework of a world-tragedy came on a day in the early part of December 1940.[92] On that day of misfortune each British woman, resident in Paris, irrespective of her age, was visited by a policeman who told her that she must go to the nearest police precinct within four hours, taking with her blankets and warm clothes. In Paris alone about 2,000 British women (including some over 85, mostly nurses and governesses) were apprehended in this way and sent to

[90] This time Canadians and colonials were included. Considered as British subjects within the scope of the decree were also such persons, not possessing British nationality, who belonged to the British armed forces. But Irish people were never mentioned in connection with enemy alien internment.

[91] An official bi-lingual (German and French) gazette issued by the German Military Commander in occupied France.

[92] Referred to in a UP and in an AP dispatch, both from Paris and dated December 5, 1940. See, in this connection, also pertinent news dated December 17, 1940 (from Paris) and January 22, 1941 (from Vichy) which appeared in the respective issues of the *New York Times*, and an AP dispatch from Berlin dated January 18, 1941.

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an internment camp in Besançon (Jura).[93] This *affaire des nanies* (affair of the good old nurses), as it came to be called, was perhaps the first shock to those French people who had allowed themselves, in the first period of the occupation régime, to admire the ostensible "correctness" (*Mais ils sont si corrects!*) of a system which must now be highly repulsive to French sensibilities.

Italy's Internment Policy

An Italian law concerning war and neutrality [94] was put into effect by a Royal Decree of July 8, 1938.[95] It contained interesting provisions [96] governing aliens; and article 287 set forth general considerations of a humane character, and, furthermore, provided that due regard should be paid to particular circumstances favoring the alien in question; for example: advanced age, infirmity, sons serving in the Italian army.

There are different forms of restriction to which enemy aliens may be subjected in terms of this Italian law. Internment (*internamento*), being only one of them, is not mandatory, but merely optional. There is much scope in this respect for the discretion of the Minister of the Interior. According to article 284 he may order the internment of enemy aliens either on the ground of their fitness to bear arms or on account of any other activity, detrimental to the Italian state, which they might develop if left at large. Another general reason for internment is provided in article 288 which deals with enemy aliens who fail to comply with any of the duties laid

[93] A report about the visit to this camp, made by a delegate of the International Red Cross in February 1941, is to be found in *Revue Internationale de la Croix Rouge*, 1941, pp. 97, 98.

[94] Twin laws called *legge di guerra* and *legge di neutralità*.

[95] For a reprint of the original text see *Raccolta Ufficiale delle leggi e dei decreti del regno d'Italia*, vol. XVI (1938), pp. 4294 *et seq.*; for a comment, H. Arthur Steiner, "Italian War and Neutrality Legislation", 33 *A.J.I.L.* (1939), p. 151.

[96] *Legge di guerra*, tit. V, cap. I, especially at arts. 284 *et seq.*

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upon them by the pertinent regulations of the Italian "war law".

The specific internment scheme, to be determined within the general program contained in the "war law", depends on the discretion of the Duce. For the present war, a pertinent decree was published on September 4, 1940.[97] It makes a distinction between internment proper (to be carried out by grouping the affected persons in special concentration camps) and confinement,[98] the latter being essentially the obligation to remain in a neighborhood prescribed in the internment order. Article 4 of the decree deals with the difficult question of what kind of work may be assigned to civilian internees. Apart from the general prohibition of "excessive" labor and of labor amounting to participation in belligerent operations, it is expressly provided that the character of the work to be performed must be in harmony with the rank of the respective internee. It is further stated that for such work an "equitable compensation" has to be paid, the amount to be determined by the Minister of the Interior. The latter, that is, the civilian and not the military authority, is in the last instance in charge of enemy civilian internment camps.

Private but creditable information from various sources[99] conveys the impression, somewhat at variance with what one would expect from a Fascist government, that the actual practice in Italy has developed along the lines laid down in the law. Internment has been applied on a selective basis only. In Italy the *campi di concentramento* for civilian internees are not enclosures within barbed wire, corresponding to the idea usually associated with the term "concentration camp". They are administered in a rather liberal way by the civil authorities in charge. Especially genial is the treatment accorded to those

[97] For a French translation of it, see *Revue Internationale de la Croix Rouge*, 1940, pp. 920 *et seq.*

[98] The term *confinamento*, not expressly used in the decree of the Duce, is applied in the practice.

[99] In this connection the author is indebted to Angelo Sereni, Sforzino Sforza and Konrad Homberger.

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numerous "internees" who are, in spite of their technical denomination, not subjected to internment proper.[100] These *confinati* enjoy personal liberty, limited only by the obligation to live in the neighborhood assigned to them, and the duty to report at brief intervals to the local police authority.

The Minister of Interior may change the status of any person from *internato* to *confinato,* that is, from internment to mere confinement. Furthermore, anyone who is certified as unfit for camp conditions may be released to remain at large. These people are called *internati liberi*—"free internees".

Concluding Remarks

Our examination of the practices applied by various belligerent countries during the present war reveals numerous variations in implementing the general power which states wield in terms of international law with regard to enemy alien internment.

It has correctly been observed:

> Every belligerent State possesses the inherent right to take such steps as it may deem necessary for the control of all persons whose conduct or presence appears dangerous to its safety. In strict law enemy subjects located or resident in hostile territory may be detained, interned in designated localities or expelled from the country.[101]

But there is one condition, perhaps of merely academic importance, to be noted. International law bars in a general way any "abuse of power"; and "the obvious duty to respect the dictates of humanity", in the language of a distinguished authority,[102] constitutes a definite restriction on the discretion vested in the domestic government.

[100] See the recommendation contained in art. 14 of the Tokyo Convention; and for the analogous theoretical distinction between "closed" and "open" camps, H. J. Held, "Zivilgefangenenschaft", in *Woerterbuch des Voelkerrechts und der Diplomatie* (Berlin and Leipzig, 1929), vol. III, p. 666.

[101] In the "Rules of Land Warfare" for the United States Army, which are quoted by Hyde, *International Law,* II, p. 226, note 3, with a reprint of this passage.

[102] *Ibid.,* p. 227.

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Concerning the special problem involved in the status of political refugees, international law, at the present stage of its development, does not warrant a proposition excluding them, as of right, from being treated as enemy aliens in the country which granted them asylum from oppression by their own government. To be sure, there have been statements to the contrary, but these have been made either on a purely moral basis,[103] or with inconclusive, even if juristic, arguments.[104]

There is much wisdom in the metaphorical statement, recently printed in a British magazine,[105] that "like the old wars of Religion, this war is truly a crusade for Liberty", and that "the crusaders are all the men and women, whatever their passport, who stand for the democratic principles of freedom." Such considerations, however, influence the policy of a given government, only in so far as it sees fit to attribute to them preponderant weight, as against the technical implications of enemy alien status.

MAXIMILIAN KOESSLER

NEW YORK CITY

[103] Parliamentary Debates, House of Lords, vol. 117, p. 125 (statement of The Lord Bishop of Chichester).

[104] E. J. Cohn, "Legal Aspects of Internment", *The Modern Law Review*, vol. 4 (1941), pp. 203 *et seq.*

[105] Argus, "Friendly Enemy Aliens", in *The Contemporary Review*, January 1941, p. 53.

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PEACE AIMS: A SPECIFIC PROPOSAL

IF the aim is a lasting peace and to avoid sources of future conflict, the terms should not merely be for home consumption and reflect our own ideals and interests, but should be acceptable to all nations concerned, to mankind generally, and to posterity. It is also preferable to make them as specific as possible in order to invite criticism and discussion rather than to leave them so vague and sonorous as to be practically meaningless and easily evaded in the future.

I would suggest the following as a beginning:

1. Abolition of all mandates and reconsideration of the territorial readjustments of 1918;

2. Internationalization of such strategic points and waterways as Gibraltar, the Dardanelles, Suez Canal, Singapore and Panama Canal;

3. Outlawing and immediate destruction of most bombers, fighting planes, high explosives, battleships, submarines, and mechanized military devices, with international control of those left undestroyed and of their future production;

4. Establishment of an international organism to control this and the aforesaid strategic places, to suppress aggression and incipient militarism, to oversee monetary exchange and fair distribution of raw materials—such as oil, rubber, coal, iron, tin—paying the producing regions a just price but charging sufficient fees to support itself and its armed forces;

5. This international board to be chosen by or consist of representatives of the following leading governments or political groups:

1) The United States
2) Latin America
3) The British Empire

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4) Continental Europe west of Russia, with its various colonies
5) Russia
6) Islam
7) China
8) Japan
9) India

6. The international forces—army, navy and aerial—to be recruited from all nine divisions but paid from international funds and employed solely for international purposes;

7. The nine constituent groups to have small armed forces sufficient for their internal needs but not for external defense;

8. Small nations or organic minorities, under certain circumstances, to have the right of peaceful secession from one of these nine divisions to another;

9. Free trade;

10. Unrestricted travel and communication for individuals who are self-supporting and not criminal, diseased, insane or of low mentality;

11. Individual freedom of religion, thought and expression; abolition of all censorship, Gestapos, and investigating committees—this to be enforced by right of appeal from one's own government to an international court.

International inspectors will be necessary in the various localities to detect violation of the foregoing provisions, but they will replace and at least be preferable to the secret agents, propagandists, spies and fifth columnists of existing governments.

LYNN THORNDIKE

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REVIEWS

The World's Iron Age. By WILLIAM HENRY CHAMBERLIN. New York, The Macmillan Company, 1941.—viii, 402 pp. $3.00.

The theme of this book—completed in July 1941—is the destruction of the Liberal Age of the nineteenth century by "an infernal cycle of wars and revolutions and counterrevolutions", beginning with the first World War of 1914-1918. The viewpoint is that of the disillusioned liberal who records the failure of America's first crusade, witnesses the bloody tyranny of Russian communism, the rise of totalitarian fascism and nazism and their march of destruction and conquest. He saw the "Fall of France" and has felt the "Ordeal of Britain". Few of the enlightened and intelligent members of that extraordinary group of post-war American journalists have seen so much and recorded so well what they have seen. When "America Faces the Iron Age", Chamberlin's message is to stay away from it all, since he knows what it is like. "It is in the building of a new and ever better democracy at home, not in adventures abroad, that America's true mission lies. . . . It is the faith in an independent national destiny that America most needs today" (p. 344).

Much of the writing is confused, digressive; some of it downright naïve. Yet a clear pattern of thought and emotion emerges, and an analysis of that intellectual structure is essential for an understanding of the honest isolationist viewpoint. The key to the author's entire system of thought on the subject of recent world affairs is to be found in two sentences (p. 107): "It was Russia that supplied the impetus to the revolt against European civilization. Had there been no Lenin there might well have been no Hitler and no Mussolini." And again (p. 109): "As a force of sheer destruction Russian Communism, that hybrid product of doctrinaire European revolutionism and the Asiatic elements in Russian society, has few rivals in history."

No historian will deny the direct contribution of the Communist Revolution both in technique and in incentive to the rise of fascism and nazism. Nor will anyone deny the unique competence of William Henry Chamberlin to analyze the terrors of the Stalinist régime in Russia as he observed them at first hand as late as 1934 when he

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left Russia. He has established his reputation as an authority on Russian communism by a number of excellent books: *Soviet Russia; The Soviet Planned Economic Order; Russia's Iron Age; The Russian Revolution, 1917-1921; Collectivism: A False Utopia.*

Yet this very concentration on Russian communism has diminished his perspective, and his high qualifications as a specialist vitiate his value as a general diagnostician. He displays no tenderness for fascism or nazism, but his vocabulary of abuse has been so depleted by the sustained assault on Joseph Stalin that there is little left over for Hitler and Mussolini. While the Communist régime is credited with no single constructive or successful achievement to offset its unparalleled record of brutality and destruction, Italian "fascism was a milder form of rule" (p. 125), neither especially destructive nor constructive. "Italy became more disciplined. Begging, petty theft, slackness in daily life, diminished. The price, of course, was the loss of freedom and of much of the easygoing charm of pre-Fascist Italian life" (p. 121). And the Nazi system (p. 159), though "pointed toward war", was efficient, and "in this rigorous system there have been compensations in the form of security."

The defects of this one-sided type of analysis become most evident when it is applied to the interpretation of the international situation. Stalin is excoriated (p. 280) for his duplicity in accepting the Nazi-Soviet Pact of August 1939, while Neville Chamberlain's Munich settlement of the preceding year is characterized (p. 279) as "clear-headed realism", from which it was a "crowning blunder" to depart in the British guaranty to Poland in March 1939. The argument runs like this (pp. 300-306). Britain and France lost their last opportunity to crush Hitler when they permitted him to reoccupy the Rhineland in March 1936. The proper course thereafter was to write off Eastern Europe and "to view with indifference the probable German drive against the Soviet Union." Chamberlin thinks there is no evidence that Hitler would then have launched a war against the West and therefore assumes Britain and France could have maintained the security of their European and imperial territories by permitting Nazi absorption of Russia. Moreover, "Such a compromise peace based upon recognition of Germany's domination of Europe but providing for the maintenance of the integrity of the British Empire, with perhaps some modification of the status of Gibraltar and Suez, has been available to Great Britain at any time.

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Hitler made it clear in July, 1940, that he had no territorial claims against Great Britain . . ."! While the record of Stalin's perfidy appears with a deadly clarity in these pages, there is no hint concerning the number of occasions prior to July 1940 on which Hitler assured the world—and his next prospective victim—that he had no more territorial demands to make.

In the light of such "clear-headed realism" there is nothing surprising about Chamberlin's advice to America (p. 344). "For recent experience has shown that a nation which embarks on a crusading war is far more likely to endanger its own liberty than to implant liberty anywhere else. But the steady light that would shine from a country that was making democracy work effectively would ultimately make its way into the lands of tyranny and contribute to the downfall that has always been tyranny's fate in the past." The Iron Age has come to America after all. Can Mr. Chamberlin attribute the blame solely to President Roosevelt's administration, or is he disposed to revise his judgments on the history of "The World's Iron Age"?

PAUL BIRDSALL

WILLIAMS COLLEGE

Metapolitics: From the Romantics to Hitler. By PETER VIERECK. New York, Alfred A. Knopf, 1941.— xviii, 335, xxiv pp. $3.00.

"This book", writes Mr. Viereck in his preface, "is an attempt to explain crucial parts of the causal chain leading from the German past to the Hitler cult of 1941." Since what follows is an account of the political and ethical ideas most current in Germany since the romantic movement of the early nineteenth century, Mr. Viereck has clearly committed himself to the side of "ideas" in the perennial dispute as to the respective rôles of ideas and interests in human behavior. As a matter of fact, he is no dogmatic idealist; he freely grants the importance in modern German life of "economics" and a good deal else that does not come into his book; and his notion of the rôle of ideas is by no means innocently intellectualist. But he remains firmly convinced that had not many Germans thought and felt in certain ways in the last century, the world would not be in its present plight. His book is not only, as he puts it, a "psychoanalysis of nazism"; it is an ardent bit of pamphleteering against certain elements in German cultural history. There can be not the

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slightest doubt of Mr. Viereck's position; he is against the Nazis and all their works, the more since he holds that the German people have made, and will make, genuine contributions to our civilization.

Briefly, the bad part of German culture is for Mr. Viereck "romanticism". Now that word has so many definitions, has been torn and shredded in intellectual conflict in so many fields, that it has become very difficult to use it precisely or—more important—without confusing overtones of emotion. Mr. Viereck obviously uses the term with something of the same meaning the late Irving Babbitt gave it. This meaning he explains in his second chapter, "Romanticism and the Cult of Life: An Attempt at Definition". Romanticism insists that the organic and indivisible nature of human life provides an ineffable source of light and truth beyond the meddling of "reason", beyond the standards of law and custom, beyond anything set and established. The Germans are for Mr. Viereck the chief modern romanticists. Politically their romanticism has ended in the cult of the master-race, the Fuehrer, the unending discontent and striving which is a perpetual political psychosis.

There is, however, a good element to be brought out against the bad in German culture. This good Mr. Viereck associates with classicism and the Mediterranean. It is the discipline and sense of measure, the civilization which the Romans brought to Germany, and which the Germans have never wholly rejected—or wholly accepted. The German is torn within by the temptation to let himself plunge into the depths of romanticism, and by the civilized attractions of classicism — "two souls in one breast". The Nazi movement is simply the latest, and in some ways most dangerous and successful, of the revolts of this German romantic soul against the nobler part of the German cultural heritage.

Put thus simply, Mr. Viereck's thesis sounds a bit trite and dull. In its development, it is neither. Mr. Viereck has many of the gifts of the journalist or pamphleteer—a lively, at times almost panting, style, an ability to pick concrete illustrations of the exaggerations he attacks, an ability to exaggerate on his own account when this seems useful. He has also many of the gifts of the scholar. This book is based on a wide reading in the original writings and is properly equipped with footnotes and bibliography. Mr. Viereck's evidence is all there; those who choose to draw different conclusions from it may do so. Wagner—the Wagner who had and expressed political ideas—and Rosenberg occupy the most important place in the book.

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From an admirer of Wagner, Mr. Viereck gets his term "metapolitics", a very German word to suggest the ineffable form politics takes among intellectuals ever striving for something beyond—beyond words, even beyond superlatives. But all the prophets and "proto-Nazis" whose names have just begun to penetrate into the world outside Germany—Jahn, Langbehn, Lagarde, Ludwig Klages—as well as more famous names — Nietzsche, H. S. Chamberlain, Treitschke—come within Mr. Viereck's scope.

Not the serious, serene, fair-minded inquiry into the intellectual origins of Nazism we may hope will one day be written, this book is still perhaps the best account of these origins available in English today. It is certainly no suitable introductory manual to modern German intellectual history. But for those who have already some direct acquaintance with things German it is a constantly stimulating—and sometimes annoying—series of essays on modern German *politiques et moralistes.*

CRANE BRINTON

HARVARD UNIVERSITY

Good Neighbors. By HUBERT HERRING. New Haven, Yale University Press; London, Oxford University Press, 1941. — xi, 381 pp. $3.00.

Like so many other recent books on Latin America, this is another evidence of our current interest in the countries to the south of us. While this fact classifies the volume under review, it has been long in preparation, shows greater insight and is very much better informed than most of the contemporary volumes on the same subject. For the author has roamed over the southern continent for these many years and has buttonholed the high and the low, the rich and the poor. The peasant, the laborer, the business man, the land owner, the politician and the soldier have all shared their sense of the universe with him and have all contributed to enrich this interesting volume. It is not an easy book to review because of its scope. One is compelled to say that this book is about everything. The author leaves nothing out, and having no obvious sense of direction goes in all directions. The book is rich in facts, but many are elementary and fitted for a primer in geography rather than for a serious volume in the social sciences. The justification for their inclusion in such a volume is the assumed innocence of the average

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American reader about Latin American things. But it does not add to the coherence of a volume that lacks a sense of direction.

In the case of the Argentine, Brazil and Chile, there is an encyclopedic endeavor crowded into 247 pages, while the next seventy-five pages contain a series of thumbnail sketches of seventeen other Latin American countries. There is a series of themes that run through the volume, each of which could have been a point of departure and each of which might have been an organizing element for a unified book. The themes that are most prominent are the poverty of the countries of Latin America, the impact of the latifundia upon the structure of the area, the malleable and corruptible character of the politicians, and the persistent strain of dictatorship. But these possible theses are lost in a crowd of other materials.

The author's discussion of South American politics is spicy, well informed and personal. He has known many of the people he talks about and has watched their political maneuvers with the keenest interest. He details the undemocratic forces in South America, and calls attention to the fact that in a country like the Argentine the most conspicuous intellectuals and those charged with the official agencies of intellectual coöperation are noted not for their zeal for democracy but for their open or implied sympathy for strong governments. The most important chairs in the universities in the Argentine are held by professors of the same coloring (pp. 56-57).

The book renders a real service to the American reader of this day in bringing into proper relief the political rôle of the South American "*latifundista*". The powerful land owners are conservatives, dubious of the merits of democracy, natural allies of strong governments, and under the circumstances are natural bedfellows of those of their leaders whose sympathies in the international political arena are with the nondemocratic forces. These elements find companionable those elements in the government, among the intellectuals, and in the press, that oppose democracy. It might, I suppose, be argued that their conservatism is local, but the tie-up with external forces is in the picture. The "frame of reference" tends to be inclusive.

In those matters in which the author's experience has been widest in the United States, his understanding is fullest in the field of Latin America. This is especially obvious in his description of the lot of the poor, the weak and the helpless. He gives a picture full of keenest sympathy for the farm laborer and the city worker—underpaid, underfed, without spirit and without hope. The Chilean worker, for

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instance, must work six times longer than the American for a loaf of bread, five times longer for a quart of milk, six times longer for a dozen eggs, ten times longer for a pound of sugar (p. 210). The crowds in the city show evidence of the poverty that oppresses them. The author notes the lack of laughter in the holiday crowd on New Year's eve in Santiago, and remembers that they have to spend 80 per cent of their income on food alone, and that their wages run from 30 to 60 cents per day in the capital of the country. They seem unattractive in their poverty and "life seems to have passed them on the other side of the street" (p. 211). The rural laborer's place is drawn in graphic language: his confinement within the plantation, his nominal freedom, his complete dependence upon the land owners, his poverty and isolation, his small money income—twelve cents per day on a plantation in Chile, for instance. These facts make reasonable the quoted remark that Chile's infant death rate is the highest in the world (p. 215).

In spite of the fact that the book was published before we got into the war, the last chapter which deals with the broader issues of the "Good Neighbor" policy has not been outmoded. The difficulties in the way of effective hemispheric defense and the internal dangers to a policy of coöperation with the United States have been little changed. The issues of our involvement in support of friendly governments remain just as acute and more insistent.

Taken as a whole, this is the best of recent books on Latin America, and it is a matter of regret that one who can write easily and simply should have marred so many of his pages by an obvious striving for literary effect. Such phrases as "the magnificent conservatives", "the superb communists", "the knightly Falangistas", "the marching Nacistas", can hardly be considered as an evidence of the volume's real merit.

FRANK TANNENBAUM

Inside Latin America. By JOHN GUNTHER. New York, Harper & Brothers, 1941.—xi, 498 pp. $3.50.

John Gunther penetrated a good deal farther "Inside Europe" than "Inside Latin America". There has been a profusion of recent books on our southern neighbors, and one is tempted to say that it is Mr. Gunther's reputation rather than his repetitions which has made this one the book of the month on the nations below the Rio Grande.

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Considering Mr. Gunther's interest in personalities, an arrangement by countries was probably unavoidable, and yet the "down-one-side-and-up-the-other" technique provides a choppy and incomplete impression of such broad problems as education, race relations, land distribution, public health, and monoculture, which in varying degrees of acuteness are facing the Latin American states.

The Guntherization of the great man theory of history continues apace in this still Africanless series, but a new note appears through the interjection of what might be called the alliterative corollary to the general line. Mr. Gunther says, of Argentina: "The century 1820-1920 was one of terrific development, with three great men, all of whose names begin with R, successively dominating it" (p. 285). Had Mr. Gunther been more S-oriented he might have nominated San Martín, Sarmiento and Sáenz Peña instead of Rivadavia, Rosas and Roca; and if three were not a magic number, he might have added an Urquiza or a Mitre. This interpretive method might also be applied to the United States by a traveling Argentine J-man as follows: "The powerful sweep of North American history in the last century was directed by three outstanding figures—Jefferson, Jackson and Johnson—all of whose names not only began with J but ended in 'son'." Or, take Marshall, Madison, Monroe and Morgan, sifted to taste.

Again on personalities, Mr. Gunther does some catch-as-catch-can juggling to produce a curious quadrumvirate of related characters. Juan Manuel de Rosas, the dictator of Argentina from 1835 to 1852, is called a "kind of cowboy Andrew Jackson". Then Hipólito Irigoyen, Argentina's first Radical president, is placed "in the Rosas tradition, more or less", and Theodore Roosevelt, whom Irigoyen "resembled a good deal", completes the brotherly portrait. With a little political geometry, this makes the imperialist but hardly murderous Roosevelt "more or less" in the tradition of Rosas, a tyrant who drove many Argentines from the country and killed others who were unable to escape. Rosas used a gang known as the Mazorca, an early form of Gestapo, for his liquidating agency, while Roosevelt (not to mention Jackson) had to be content with a Sherman Act.

Statistically, Mr. Gunther is occasionally baffling (is it $2,000,000,000 [p. 283] or £2,000,000,000 [p. 329] that Britain has invested in Argentina?), and occasionally downright wrong. He says: "We sell more to Latin America than we buy, however, which is

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the core of the problem. . . . In 1938 we took 30.5 per cent of total Latin American exports and provided 34.0 per cent of total Latin American imports" (p. 12). Using these figures, together with those of $1,834,000,000 and $1,488,000,000 which are given for total Latin American exports and imports, respectively, for 1938, we find that contrary to Mr. Gunther's statement the United States bought $53,450,000 more than she sold to Latin America in that year. Mr. Gunther does not say exactly what "the problem" was, but in any case its core was definitely wormy. The fact is that in every year from 1920 through 1937, except 1921, the United States bought more than she sold to Latin America. Final figures for 1938 (which were not used by Mr. Gunther) and those for 1939 and 1940 show a balance favorable to the United States, but the 1941 returns, as Mr. Gunther notes, presage a large import surplus.

Finally, Mr. Gunther's sense of drama causes him to begin a chapter with "The fundamental issue between the United States and Argentina is the hoof-and-mouth disease" (p. 301). Considering that the United States in 1938 produced 3.1 million metric tons of beef while Argentina exported 445,000 tons, and considering that the tariff on beef would probably be continued in any case, it seems doubtful that any great amount of Argentine beef would enter the United States even if, as the Argentines claim, the virus of *aftosa* were killed by the freezing process. More important is the fact that Argentina's agricultural exports are usually valued above those of meat and other animal products; and we would be unable, except in years of drought, to buy any of her great surpluses of corn and wheat. Also of fundamental importance is Argentina's jealousy of the power of the United States in the Western Hemisphere, and the concomitant fear that the Argentine dream of heading a Plata federation, and perhaps a South American federation, may be thwarted by the dominant position of the Colossus of the North.

Offering less information than Herring's *Good Neighbors* and less insight than Aikman's *All-American Front*, the result of Mr. Gunther's five-month tour should be considered rather as an interestingly written travel record than as a contribution to an understanding of Latin America. In view of its large sale, however, it may awaken some interest in Latin American affairs among a lot of people who have not read the productions of other good-neighborly trippers.

BRYCE WOOD

COLUMBIA UNIVERSITY

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British Labour's Rise to Power. By CARL F. BRAND. Stanford University, Stanford University Press; London, Oxford University Press, 1941.—xi, 305 pp. $3.50.

Although the author disclaims the intention of presenting the history of the British Labour Party, he cannot be absolved from a most misleading title for his eight essays. Even if one were prepared to concede that Labour ever enjoyed "power" in the United Kingdom, this book does not either describe or explain its "rise" to that status in 1924. Over seventy per cent of it is devoted to 1914-1919. This is preceded by a study of 1860 to 1867 and followed by one essay on the relations of British Labour to the Second, the Two and a Half, and the Third Internationals, 1919 to 1923, and another on the relations of British Labour and the Communists down to 1939.

The core of the book, most of which had already been published in the *American Historical Review* and two other historical journals, is a solid record of the activities of Labour organizations, political and trade union, in British coalitions of 1914-1918, in the expression of war aims and peace programs, in response to President Wilson's policies during the war of 1914, in attitudes toward him during the Peace Conference, and in relations to the Second International from 1914 to 1918. It is based on periodical literature of all shades of opinion, on official and semi-official publications of the Trades Unions and the Labour Party, and on a small number of special monographs. Thus it forms a most convenient record and guide for the 1914-1918 period, which has the merit of recalling such things as the establishment of Labour's political independence in December 1916 (p. 42) or the important rôle of the Union of Democratic Control in providing between 1914 and 1918 the bridge across which many Liberals passed on their way into the Labour Party. On the other hand, the author seems loath to embark on broad synthesis and interpretation, although his scholarship would seem to entitle him to do so. For instance, his second chapter and the first part of the third hesitate too long to come to grips with the great impact of the Russian Revolution on Labour in Great Britain, with the result that, where a somewhat slight attempt is made to evaluate this, one has to go back fifty pages or so to see what light it would shed on what has gone before. Similarly the shop stewards suddenly pop up in a parenthesis on page 207 as being more austerely orthodox than Lenin

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himself about affiliation between the British Communists and the Labour Party. Surely the shop stewards' movement, which is a fascinating study in itself and which provided a hard core for British communism, might have found an earlier place in the discourse, if not perhaps in chapter ii, at least in chapter iii.

Two conclusions seem justified from the evidence here presented. One is that when the dust has cleared away it will be the assiduous, idealistic, and yet realistic Arthur Henderson who will emerge as the "great man" of British Labour after 1910 instead of the spell-weaving Ramsay MacDonald or the venomous Philip Snowden. Professor Brand in many references bears witness to this, although he never pauses long enough to say so emphatically. The second is that, while British Labour has had clear, exact ideas about its domestic policies and has shown that it knows how to effectuate them within the limits of its power, the precise opposite has been the case in imperial policy and international relations. Presumably Professor Brand would disagree with this conclusion, for he describes in detail the admirably altruistic programs of British Labour and its swift, warm responses to such programs in others, as, for instance, the Russians or President Wilson. But the fact remains that probably the underlying reason why British Labour did not rise to power was that the British public did not believe that the movement had ever set out to acquire the knowledge and expertness necessary for crucial imperial and international readjustments. Freedom for India and Ireland and self-determination for other peoples elsewhere were as admirable ambitions as George Lansbury's Christian pacificism, but the mere intentions did not carry with them the ability to make such bold experiments work in an unfriendly world. Here again, one supposes, it will be Arthur Henderson, who gave his life to trying to make the League of Nations fulfil its highest potentialities, who will emerge head and shoulders above his colleagues.

The introductory chapter on 1860-1867, followed as it is by a complete gap for the great ferments which preceded the emergence of Labour on its own in politics in 1900, throws one back on Miss F. E. Gillespie's *Labor and Politics in England, 1850-1867* and G. D. H. Cole's *Short History of the British Working Class Movement.* The last two chapters, on the other hand, disinter materials which had dropped out of sight except for those who follow the polemical literature of radical "fractions".

J. B. BREBNER

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Great Britain under Protection. By FREDERIC BENHAM. New York, The Macmillan Company, 1941.—xvi, 271 pp. $2.50.

This concise and readable volume, one of a series on commercial and tariff history projected by the Carnegie Endowment for International Peace, is a sound, largely nontechnical study of the origins and growth of British protectionism. The introductory chapter on Great Britain under free trade is followed by sections on the British tariff and other forms of protection, imperial preference, trade agreements, monetary policy, protection to the iron and steel industry and to agriculture, and on economic recovery.

The author notes that the Import Duties Act of 1932 postdates the abandonment of the gold standard, which knocked out the "balance of trade" argument for protection. The old export industries (textiles and coal) were hopelessly depressed; only a shift to new export industries could solve Britain's problem. But, he concludes, "economic reasoning played very little part in causing protection to be accepted" (p. 23). On the whole, however, the British tariff remained relatively low: most raw materials and most Empire products are duty free and, while nearly all other imports are dutiable, they enter at moderate (usually 10 per cent) rates. On luxury and key industry products the rates are distinctly protective, and quotas and subsidies afford very considerable protection to agriculture.

Great Britain's conversion to protection gave her, for the first time, the bargaining power with which to obtain a preferential position in Empire markets. These preferential margins, negotiated at Ottawa in 1932, were not extended to any outside power, despite the unconditional most favored nation clauses in British trade treaties. Yet these clauses were used by Britain to block attempts—such as that of the Oslo Powers—to set up low-tariff unions. By 1939, Professor Benham finds, there was not much enthusiasm for imperial preference either in Great Britain or in the Empire (p. 108). British farmers and Dominion manufacturers object to intra-empire competition; British manufacturers resent Dominion tariffs; Dominion farmers find the United Kingdom market disappointing; and the British government is hampered in trade negotiations with outside Powers. The reviewer wishes the author had offered better evidence of this lack of enthusiasm for the imperial preference which, with bilateralism (e.g., the Roca-Runciman Agreement), has hampered United States trade agreement efforts.

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British consumers of iron and steel employ more workers than does the iron and steel industry; imports were mainly semi-manufactures. But the industry was given protection in 1932. Its subsequent prosperity, the author believes, was due more to a revival in demand than to the tariff (pp. 191-93), although the latter did provide relief from continental competition. British agriculture, technically backward and hard hit by low prices, was aided by several devices: tariffs, subsidies (e.g., the expensive beet sugar subsidy), price regulation, production quotas, etc. Considerable prosperity was restored (p. 214), but agricultural employment declined and "the price paid for a little more agriculture . . . than we would have in the absence of any state assistance is a high one . . ." (p. 217).

Great Britain's remarkable economic recovery following 1931 was not in any major part due to the tariff (p. 220). Its effect on exports was adverse, and the employment increase took place in the nonprotected industries—notably in the building trades. The author believes that low import prices (especially of foods) released purchasing power and initiated recovery (p. 247).

The book is not, and is presumably not intended to be, an exhaustive empirical examination of British protection. Its analysis of British monetary policy and of the pattern of recovery is particularly sketchy. But the story as a whole is comprehensive and critical and amply supports the author's conclusion (p. 249) that Great Britain, dependent on international trade, has followed a policy in recent years which has inevitably fostered other countries' drives for self-sufficiency.

F. A. SOUTHARD, JR.

CORNELL UNIVERSITY

Public Policy: A Yearbook of the Graduate School of Public Administration, Harvard University, 1941. Edited by CARL J. FRIEDRICH and EDWARD S. MASON. Cambridge, Graduate School of Public Administration, Harvard University, 1941.—viii, 458 pp. $4.00.

Public Policy represents a collection of thirteen essays written by public officials, faculty members and Fellows of the Harvard Graduate School of Public Administration. From the point of view of subject matter, the essays are devoted to two basic topics: (1) recent and contemporary governmental policies aimed at changes in the total volume and distribution of income payments to individuals, and (2) the mechanics of public administration.

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The rationale of federal policies designed to increase the sum total of income payments to individuals is investigated by Mr. Benjamin Higgins and Mr. Richard A. Musgrave in "Deficit Finance—The Case Examined" (Part I, chapter v) and Mr. William A. Salant in "Foreign Trade Policy in the Business Cycle" (Part I, chapter vi). "Deficit Finance" represents an exposition of the compensatory governmental spending approaches usually associated with the names of Kahn, Keynes and Hansen. Throughout the essay, the authors carefully differentiate the various approaches, indicate their probable limits, specify the conditions which must be present if compensatory public spending is to improve income levels, and clearly show some of the difficulties which a compensatory public spending policy is likely to face when applied within the framework of traditional institutions. Mr. Salant in "Foreign Trade Policy in the Business Cycle" sets himself substantially the same problem which is faced in "Deficit Finance". Contrary to Messrs. Higgins and Musgrave, however, he explores the possibility of improving the national income position. Generally speaking, Mr. Salant concludes that an effective national policy of "freer" trade in the recent past might have somewhat compensated for domestic income losses associated with violent fluctuations in home investment.

Mr. Stauffacher, in his essay, "The Effect of Governmental Expenditures and Tax Withdrawals upon Income Distribution, 1930-1939" (Part I, chapter vii), attempts to determine what percentage of income different groups in the community have been called upon to surrender in the form of taxes and what percentage of the income of these groups is traceable to governmental expenditures of one type or another. Though the outstanding characteristic of Mr. Stauffacher's series is the spirit of bold experimentation which motivated their construction rather than established statistical reliability, his tentative findings are of great interest and present a challenge to further intensive investigation along similar lines.

In view of the federal government's steadily increasing active and positive participation in economic affairs, the mechanics of governmental administration presents topics of intense interest. For instance, if the federal government is to engage in compensatory spending during the post-defense period, the adequacy of public budgeting is likely to become of paramount importance. Budgetary procedures are investigated by Mr. Harvey S. Perloff in "Budgetary Symbolism" (Part I, chapter ii), by Mr. Spencer Thompson in "The In-

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vestment Budget" (Part I, chapter iii) and by Mr. Robert H. Rawson in "The Formulation of the Federal Budget" (Part I, chapter iv). Broadly speaking, Mr. Rawson presents a competent sketch of recent and contemporary federal budgetary procedures, Mr. Perloff establishes interesting relations between budgetary symbolism and the basic values of the traditional laissez-faire culture, and Mr. Thompson presents a strong case for the establishment and simultaneous preparation of current expense and capital outlay or investment budgets.

If positivistic fiscal policies are to be effective they must of necessity be coördinated with monetary policy. Mr. Karl R. Bopp in "The Government and the Bank of France" (Part I, chapter i) presents an interesting case designed to acquaint the reader with the control mechanism of a historically important foreign central bank.

Again, if governmental policy aimed at improvement of income levels and changes in income distribution is to be assured of reasonable success, it would seem essential that monopolies that are potent determinants of both income volume and income distribution either be controlled or eliminated. Mr. Corwin D. Edwards in "The New Antitrust Procedure as Illustrated in the Construction Industry" (Part II, chapter i) outlines the procedures employed at present by the government in dealing with an industry that is notorious for its lack of technological progress and its "chronic restraints of trade".

It is implicit in the expansion of governmental activities that the way in which government transacts business with private firms, the way in which government officials are controlled and restrained, and the manner in which government employees are organized into departments and bureaus become matters of acute public interest.

Typical relations between the government as a buyer of commodities and private concerns are lucidly described by Mr. Albert M. Freiberg in "How Government Buys: An Appraisal" (Part I, chapter viii). Controls and restraints currently imposed upon public officials are outlined by Mr. Otto Kirchheimer in "The Historical and Comparative Background of the Hatch Law" (Part II, chapter ii). Alternative forms of governmental organization are outlined by Professor Arnold Brecht in "Three Topics in Comparative Administration — Organization of Government Departments, Government Corporations, Expenditures in Relation to Population" (Part I, chapter ix).

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The closing chapters of *Public Policy* are devoted to problems created by the nation's contemporary defense effort. Professor Carl Joachim Friedrich in "Controlling Broadcasting in Wartime: A Tentative Public Policy" (Part II, chapter iii) discusses the problems involved in controlling a new medium of communication, a medium which was not developed at the time of the first World War, and which, it would seem, cannot be conveniently subjected to the controls conventionally imposed upon the press in times of military effort. Captain O. L. Nelson in "Administrative Planning for National Defense" (Part II, chapter iv) traces the history of the General Staff and poses some of the basic problems with which this body is currently confronted.

It goes without saying that it is exceedingly difficult to appraise in a general way a symposium such as *Public Policy*. Manifestly the contributions of different writers vary considerably with regard to outlook, emphasis and facility of presentation. However, if some generalization is to be attempted, it may be suggested that all the contributions deal with topics of definite contemporary interest. Again, most of the topics have been the subject of heated and sometimes bitter controversy. Whatever knowledge the layman has of the materials in hand has usually been obtained by listening in on radio debates or by perusal of the pages of news magazines or papers. Inasmuch as neither of these sources of information is characterized by extraordinary scientific detachment or a passion for telling a balanced, prosaic but realistic story, it is perhaps the outstanding merit of *Public Policy* that it attempts to tell just such a story in a language the educated layman understands.

PAUL H. WUELLER

THE PENNSYLVANIA STATE COLLEGE

Value and Distribution. By LEWIS H. HANEY. New York and London, D. Appleton-Century Company, 1939.—xvii, 734 pp. $4.00.

Students of neo-classical economic theory will find the structure and content of this treatise familiar. Professor Haney differs with writers of the Marshallian era mainly on matters of terminology and definition which do not affect the main course of the argument. The novel definitions of such familiar concepts as "equilibrium" (p. v), "competition" (p. 132), "wages" (p. 518), and "marginal man" (p. 549) impair the usefulness of the volume as a textbook, though teachers of theory may find it a useful reference work.

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Developments in economic theory during the past twenty years are for the most part ignored or condemned. There is little reference to the business cycle or to recent attempts to merge cycle theory with general economic theory. Mr. J. M. Keynes, who has undoubtedly had a major influence on economic thought during the past decade, receives one brief and inaccurate reference (p. 563). Countering the recent tendency toward sharpening and clarification of theoretical concepts, Professor Haney reverts to older and vaguer definitions. Outstanding in this respect is his definition of competition (pp. 130-132). The theory of monopolistic competition is dismissed as unsound (pp. 144-152), but reappears two hundred pages later in a chapter entitled "Prices or Rates Under 'Monopolistic Competition': The Theory of Railway Rates".

A strong preoccupation with political objectives runs through the volume. After the author's announcement that he is seeking "a logically tenable position between two extremes" (p. v), one is surprised to find an extreme restatement of the individualist position. The book is studded with gibes at the "idealists" and their "rejection of laws based upon experience and insistence upon experimentation that is essentially planless" (p. 12). But planned experimentation is even more roundly condemned. Crop control, and by implication many other economic policies of the mid-thirties, are lumped with "the capricious experiments of dictators in collectivist states", and "the false promises which the heads of collectivist states make to their followers, promises of the abundant life and the like" (pp. 155-156).

The author's political assumptions lead him to a drastic limitation of the scope of economic science. After a hopeful beginning—"It should be emphasized most emphatically that economics is related to economic life, and not to some particular form of economy" (p. 21)—he ends up by restricting economics to the analysis of an idealized system of private enterprise—"it is clear that economics *as a science* . . . can exist only upon the basis of competitive process" (p. 134). The climax is reached, however, in the statement that "the individual, considered as living in an independent economy, has much the same problems as the totalitarian state. . . . An explanation of what goes on in the individual's mind will come very close to explaining what must go on in a theoretically perfect Communist society" (p. 48). This sort of ratiocination contributes little toward the solution of present economic problems.

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The first sentence of Professor Haney's volume inquires: "Why is it so common today to find that economists, as such, have little influence in public affairs, even when economic issues are paramount?" There are two possible answers to this question. First, it is not true that economists have little influence on public affairs, unless economists employed in Washington are excluded from the guild because they are not engaged in full-time analysis of the competitive process. The second answer is that many economists, by complete absorption in the analysis of an imagined static and perfectly competitive economy, have lost historical perspective and with it the ability to advise on the problems posed by economic crisis and rapid institutional change. Professor Haney's volume thus answers his own question, though not in exactly the way he intended.

LLOYD G. REYNOLDS

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From Luther to Hitler: The History of Fascist-Nazi Political Philosophy. By W. M. MCGOVERN. Boston, Houghton Mifflin Co., 1941.—xiv, 683 pp. $4.00.

While the official spokesmen of totalitarianism have on occasion argued, as their critics have even more vociferously proclaimed, that their philosophies were rationalizations after the all-important event, it has been very clear to serious students that the various elements in those doctrines have had a considerable history. A thorough analysis thereof for the American student has, however, been provided only in the work hereunder reviewed; for its provision any student must be grateful.

From the point of view of scope, proportion, and informed scholarship, Professor McGovern's treatment is generally admirable. The work is divided into four parts. The first of these covers doctrines from the end of the Middle Ages down to the Federalist period in American history. The second deals with German Idealist thought and its English offshoots. The third discusses doctrines of absolutism in the nineteenth and twentieth centuries under three rubrics: Traditionalism, Irrationalism, and Social Darwinism. The fourth is concerned with the current philosophies of Fascism and National Socialism. The first of these is relatively short, while the other three are of far greater length. Professor McGovern is very widely read, quotes freely from his sources, and expounds with considerable thoroughness, though not always without selective bias, the ideas of those whose writings he considers.

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Nevertheless, the book is disappointing and misleading. It suffers from the author's excessive eagerness to smell out, even in the most unlikely places, the very suspicion of an idea which might give, or has given, aid and comfort to totalitarian thought. Certainly T. H. Green, Kant, Bagehot, Graham Wallas, Herbert Spencer and Galton have but a remote connection with Fascist-Nazi doctrines.

Such curious interpretations are, however, the consequence of a more profound philosophic and political attitude on McGovern's part. He is indeed cautious and fair enough always to note that there were other sides to the teachings of the thinkers whom he regards as precursors and as creators of a climate of opinion from which authoritarianism and the glorification of the state could emerge. Essentially, however, he sees in concepts of duty as fundamental, morally or politically, as against the supremacy of rights, a possible aid to the totalitarian state. He sees, similarly, in any viewpoint which regards the state as something more than a concept relating human atoms a threat to human equality. He perceives lurking in any doctrine of human inequality, whether on biological or other grounds, a danger of authoritarianism and a praise of hierarchy. He sees in any division between races, no matter how scientifically grounded, a threat of racialist doctrine. He sees in any theory of the rights and claims of groups and in any doctrine which regards organized society as possessing something not to be found in the individuals composing it, a necessary theory of the reality of groups as against individuals, and an attack on the liberal heritage. He sees in most doctrines of nationalism and of national difference, even when proclaimed by liberal nationalists, the seeds of the aggressive nationalism of the modern dictatorships. He perceives in various doctrines of organization and control of economic life by public authorities the threat of autarky and totalitarian economics. He perceives in any concern with the traditional values of a society, and with the perception thereof, the danger of reactionary traditionalism or traditionalism as mythical history for the use of the power state. He perceives even in the recognition of the degree to which human beings are irrational a threat to the use of reasoning in human affairs and the danger of the praise of mere feeling. And finally, it is his conviction that pragmatism of the Jamesian variety, as praise of that which works, necessarily sooner or later gives rise to the glorification of power and of the taking of action without due reflection or rational purpose.

That all these various doctrines can be used, perverted and amalgamated by an unscrupulous eclectic in the way he suggests is no

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doubt true. Undoubtedly, also, the doctrines of early and, in some cases, contemporary biology and psychology, as well as of anthropology and sociology, can be, and are, perverted and misapplied in the service of Mussolini and Hitler.

Indeed, Professor McGovern proves too much; for essentially he seems to show that the whole trend of modern social thought, idealist or pragmatic, liberal or conservative, has essentially been directed toward the creation of those régimes that he, in common with most of his fellow citizens and fellow scholars, deplores. He argues, too, that those sciences which were the peculiar contribution of the nineteenth and early twentieth centuries, and are more directly concerned with human beings than any others, have no less inevitably given comfort and prestige to the enemies of science and reason. Determinism and indeterminism, rationalism and irrationalism, traditionalism and creative activism have all contributed their mite to the Nazi-Fascist doctrine.

On the purely political side, Professor McGovern apparently condemns as enemies of democracy and of liberalism all those thinkers who are not committed either to a Lockeian theory of natural rights, or to laissez faire, or to a combination of the two. He characterizes thinkers as etatists (a somewhat awkward term) and semi-etatists, and authoritarians and semi-authoritarians; and he believes that all thinkers who partially or wholly fall into these classifications are to that extent, at least potentially, enemies of liberty and democracy and friends of totalitarianism. Totalitarianism involves thoroughgoing etatism (i.e., state control of most spheres of life) combined with thoroughgoing authoritarianism (that is, hierarchy, inequality and leadership within the state). Only a diminished state, with essential political equality, can be genuinely a free state.

To take this position seems to the present reviewer a mere indulgence in vain regrets for times past; and it may well be suggested that if Professor McGovern is right, the outlook for this country and for England is scarcely less dark than that for those committed to, or suffering from, Nazi policies. It may also be suggested that, while the conditions for the preservation of democracy and of liberty in the current situation are still not fully determined, there are, nevertheless, some signs that a high degree, at least, of etatism, and some elements of authoritarianism, may be made compatible with, and are even necessary to, insurance of these desiderata.

THOMAS I. COOK

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Empire or Independence: A Study in the Failure of Reconciliation, 1774-1783. By WELDON A. BROWN. University, Louisiana State University Press, 1941.—ix, 338 pp. $3.00.

The subject of this book is indicated by its sub-title, though the period should perhaps have been narrowed to 1774-1778. There were some peace moves after the failure of the Carlisle Commission of 1778, but they deserve little attention, and the author has almost nothing to say about them. The theme of reconciliation runs like a thread through the early years of the War for Independence, interlaced with the political, diplomatic and military phases of that conflict. The subject is important; as a whole it has not received adequate historical treatment, and an important book might have been written on it. Professor Brown's research has been extensive if not exhaustive, as his bibliography and footnotes testify; he has ranged widely in the manuscript collections of the William L. Clements Library that contain relevant materials and in a variety of printed sources (pamphlets, correspondence, diaries, collected writings, and newspapers), nor has he neglected the pertinent secondary works. Unfortunately, however, it cannot truthfully be said that his accomplishment has been commensurate with his opportunity.

The principal defect of the study is in exposition. It exhibits a tendency, all too common among young researchers, to present an agglomeration of notes and call it a book. There is too much accumulation and too little integration. The author's summaries of speeches and writings would have gained greatly in clarity and cogency if he had refined his raw materials in the light of his argument. The reader's attention is frequently distracted by irrelevancies, and it is often difficult to tell whether the author is expressing his own opinion or that of a speaker or writer with whom he is dealing. One encounters such inconsistencies as this:

> Burgoyne's surrender ... caused England to make its first and last serious and liberal attempt at reconciliation .... It seems very doubtful that anyone in England really could have believed that any proposition short of actual colonial independence had the slightest chance of success. Lord North may have been sincere in his last peace effort [p. 205] .... Despite the Franco-American alliance, Lord North thought the conciliatory bills of February 17, 1778, had a chance of success in America (p. 244).

A case of chronological confusion on the author's part is indicated by the following suggestion which he offers in explanation of the

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parliamentary election of 1774: "Anxious to have a greater majority with which to confront the opposition and defeat the American peace proposals, George III dissolved Parliament and ordered a new election. The petition of the Second Continental Congress to the King may have been a major factor in forcing the new election" (p. 35). The trouble with this conjecture is that the "new election" took place in the autumn of 1774, and the Second Continental Congress did not meet till the spring of 1775. The passage just quoted is open to objection for another reason also. As evidence of George III's motives for summoning a new Parliament the author relies upon a letter from the King to Lord North, written in August 1774, which says nothing about any peace proposals.

The author sometimes indulges in the disconcerting historical vice of the unexplained allusion. On page 23 the reader is confronted with the "second petition to the King", but for further light on this document he has to wait till he reaches page 28, and it is not summarized till page 30. Again, he encounters Chatham's "provisional bill" on page 41 and has to wait more than 100 pages (p. 143) to be told what it was all about. The meaning of the term "internal police" (p. 133), as used at this time, ought to be explained.

The author says nothing of the proposals for reconciliation on the basis of the renunciation by Parliament of all claim to legislative authority over the colonies and their equality in status with Great Britain. James Wilson, on the American side, and John Cartwright, Granville Sharp and Richard Price, on the British, were noteworthy representatives of this school of imperial thought, but their names do not appear in Professor Brown's index, though, curiously enough, Cartwright's pamphlet, *American Independence the Interest and Glory of Great-Britain*, is listed in the bibliography

The author concludes with an enumeration of factors which help, in his judgment, to explain the failure of reconciliation. In his preface he attributes the "basic failure" to "causes running backward beyond the course of the previous decade, to those inevitable differences that arose between the British government and the American colonies throughout colonial history." Those who like to think historically in terms of "fundamental causes" may find this explanation satisfying.

ROBERT LIVINGSTON SCHUYLER

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The United States, Great Britain and British North America: From the Revolution to the Establishment of Peace after the War of 1812. By A. L. BURT. New Haven, Yale University Press; Toronto, The Ryerson Press; London, Oxford University Press, for the Carnegie Endowment for International Peace, 1940.—xv, 448 pp. $3.25.

Professor Burt in this volume, one of the series of studies on the relations between Canada and the United States, has made a notable contribution to international history. At this vital time he has illuminated the confused period of adjustment and of hostilities between the new nation, composed of the colonies which obtained their independence, and those that remained loyal to the motherland.

It was a much needed task and has been performed with a thoroughness and care which make it, in all probability, the definitive work on the subject—one which will become the standard authority on the steps by which the United States and Canada proceeded from enmity to friendship, and a unity of sentiment which at the present time is so desirable for both nations.

The basis of the author's study is diplomatic, and the sources he has explored are found in the foreign archives of both the United States and Great Britain, including the excellent copies of those relating to Canada preserved at Ottawa, where they are arranged and placed at the disposal of research workers with all possible help. The American archives collection, being younger than that of Canada, has not yet reached that state of helpfulness that is offered at Ottawa; nevertheless, there and in the statesmen's papers in the Library of Congress, Professor Burt found the material which explains the motives for the several treaties, as well as for the conventions that failed.

It will thus be understood that this volume is almost wholly a diplomatic study, only such events as are necessary to the explanation of the international actions being recorded. The personal note, also, is confined to officials and governors and the representatives sent by the two governments to maintain the relations between the lost and the retained colonies of Great Britain.

Of necessity much of the study relates to boundaries, the three thousand mile long line which separates Canada from the United States, and how it came into being. The difficulties were largely confined to the eastern end and to what was in 1783 the western end,

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so wrongly defined by the treaty at the close of the Revolution. This study is of considerable importance to the present "Middle West" of the United States, and supplements the author's previous study of the Province of Quebec, which in 1774 extended its government of that province to the Ohio River. Mr. Burt rejects the statement that George Rogers Clark *won* the Northwest, attributing that notable result to the conflicting events of 1782, to the skill of the American envoys at Paris, and to the desire of the British cabinet for an immediate peace.

A large section of the book concerns the retention by Great Britain of the Northwest posts, and the reasons offered by the British for this action. This author does not attribute it entirely to the fur trade, as was hastily concluded by the American people at that time and has been so taught in history manuals from then until now. The basis of the whole matter, in Mr. Burt's opinion, was the British blunder in the treaty of 1783 with regard to the Indians. Having promised these people to care for their interests, they were so forgotten in the treaty of peace that the red men considered they had been betrayed by their "Great Father", the king of Great Britain, to their enemies, the Americans. The crux of the situation from the Revolution to Jay's treaty of 1794 was the British attempt to repair the damage that blunder had made. It seems curious, with so much of the history turning upon the retention and surrender of these Northwest posts, that the author did not take pains to date the surrenders correctly. He states (p. 161) that Niagara was the last post, the British garrison of which was relieved in August 1796. The reviewer found in her study of the *British Regime in Wisconsin and the Northwest*, that Michilimackinac was not turned over to an American garrison until September of that year.

The second part of this book turns on the causes that led to the War of 1812, and here the author comes into the sphere of other eminent historians, notably Henry Adams, whom he cites as source, Ephraim D. Adams and Julius W. Pratt. Dr. Burt has divided the pre-war period into two parts: the evolution of causes to 1809, that is, to the repeal of the Embargo; the evolution of causes from 1809 to the declaration of war. In these chapters he has discussed the Chesapeake incident and the excitement it caused throughout the states; the Indian disaffection of the Shawnee Prophet and his brother, Tecumseh; the New England disapproval of the foreign policy of the administration; the nonintercourse act and the oppor-

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tunity it gave France under Napoleon to take advantage of American commerce. These and the many other "incidents" both on sea and land, brought about by the great European conflict, and its repercussions in America are clearly and accurately described.

Professor Burt gives one chapter to the operations of the War of 1812, which follows conventional lines and adds little to our knowledge of that unfortunate conflict. It shows a small people, utterly unprepared, attacking the most powerful nation of the world, so absorbed in its great European struggle with a dictator that the "little war over the water" made small impression on its consciousness. Even today the events of this second war with the United States are so little known to Englishmen that one of them, aghast at the burning of Washington, supposed it to be a person, not a city, and exclaimed, "I knew we burned Joan of Arc; did we burn Washington also?"

The last chapters of the book concern the treaty of Ghent, when the American envoys skillfully repaired by diplomacy the failure of their military leaders, and wrested a triumph from the triumphant English, even the great Duke of Wellington joining in granting a peace without reparations. This treaty with the close of border friction and the disarmament of the navy on the Great Lakes ushered in an era of peace and friendliness, which has never been broken and which offers an example for future world adjustment.

Thus this book is worthy of being presented to the world of today by the Carnegie Endowment for International Peace.

The book's appearance is worthy of its theme, for it is finely printed, illustrated with adequate maps, and furnished with a good index. There is no bibliography, the notes furnishing reference to the sources. The volume will no doubt become the standard authority for the time on the relations between the two great nations of North America. Professor Burt is to be congratulated on its completion and publication.

LOUISE PHELPS KELLOGG

STATE HISTORICAL SOCIETY OF WISCONSIN

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BOOK NOTES

Censorship 1917, by James R. Mock (Princeton, Princeton University Press, 1941; ix, 250 pp. $2.50), was written before December 7, 1941, which means that it now carries a slight suggestion of the antique. But it is not obsolete; on the contrary, the events at the end of the year have doubled and redoubled its importance, because censorship, which was a chapter in history when this book went to press, is the law to which everyone is subject now. If information is to be translated into action at once, Mr. Mock's ideal audience would consist of one man, to wit, Mr. Byron Price, for he alone is capable of applying its precepts. But the book's most important lesson is of no value whatever to Mr. Price, for that lesson is its exposition of the way in which the poison began to take real effect only after the federal censorship had been abolished. If Mr. Price is as able an administrator as his predecessor, Mr. Creel, we have not much to fear from him. But unless the American people have learned more than it is reasonable to expect, we may look for a great deal of trouble after Mr. Price has shut up shop and returned to private life. The censorship of 1917 was guilty of occasional stupidities and absurdities, but they were remarkably few, considering the circumstances; and there is no evidence that it was ever guilty of protecting incompetent or dishonest officials. On the other hand, the censorships that followed it, set up and operated by states and municipalities, are under grave suspicion, in many cases, of operating, not for the protection of society, but for the protection of those who preyed upon society. A whole class of legislation, typified by the criminal syndicalism laws, was employed over and over, not to suppress really subversive action, but to oppress and browbeat people who were fighting for their rights. Yet there is no doubt that these laws stemmed from the system of censorship established during the war. Mr. Mock should be read by private citizens, therefore, with an eye, not to what happened in 1917, but to what may happen when the present war is over. Examined in that light, it may not inspire much optimism, but it should stiffen the resolution of every man who believes in liberty firmly to oppose any repetition of post-Armistice happenings.—GERALD W. JOHNSON, Baltimore, Md.

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In *The American Maritime Industries and Public Policy, 1789-1914* (Cambridge, Harvard University Press, 1941; xxi, 627 pp. $5.00) by John G. B. Hutchins an ambitious attempt has been made to present the economic history of our shipping and shipbuilding industries and to consider the implications and effects of American navigation policies down to the outbreak of the first World War. For the most part this attempt has been successful and the result is a scholarly yet readable volume which compares favorably with previous Harvard Economic Studies. In fact the present work is the most satisfactory history of our maritime industries during the nineteenth century that has appeared. The sections dealing with the rise and fall of the wooden shipping industry are particularly well done. The author makes a detailed analysis of the shipbuilding and shipping industries during the first half of the nineteenth century and demonstrates that our merchant marine flourished because of our vast supplies of cheap timber. During this same period most European countries placed restrictions on the acquisition by their nationals of foreign-built ships and these self-imposed handicaps contributed to the prosperity of American shipping. Foreign shipowners, compelled to purchase high-cost vessels built at home, found it difficult to compete with the cheap American-built ships. After the development of steam navigation and iron and steel ships the situation was completely reversed, and American shipping companies, compelled by our navigation laws to purchase high-cost American-built ships, could not compete with foreign concerns operating the relatively cheap vessels produced in British yards. Dr. Hutchins indicates correctly that our restrictive registry law was the most important single influence in the decline of the American merchant marine. The analysis of American navigation policy during this period of decline is the least satisfactory section of the book. While indicating the *results* of legislative policy after 1860, the author devotes too little attention to the political and economic setting in which the policy was formulated. Shipping legislation became but a part of the great battle over the tariff and most of the subsidy proposals were simply attempts to raid the treasury. These facts do not receive the emphasis they deserve. Considered as a whole, however, this new work is a distinct contribution, both as economic history and as a critique of governmental policy. It will be greeted with enthusiasm by all interested in ships and the sea.—PAUL M. ZEIS, The University of Akron.

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It represents high praise to say that Professor Edgar McInnis' *The War: Second Year* (London, Toronto, New York, Oxford University Press, 1941; ix, 318 pp. $2.00) is in every way the peer of its predecessor, published in 1940 as *The War: First Year*. The newer volume is without doubt the most readable and most reliable chronological summary now available of the second twelvemonth of the war. Specifically, it covers the period from the heavy German bombings of Great Britain in September 1940 to President Roosevelt's Labor-Day speech of September 1941, in which he declared that "we shall do everything in our power to crush Hitler and his Nazi forces." Unavoidably, the book is based largely on newspaper accounts and the published reports of the belligerents, but the process of sifting and evaluating has been done with skill, moderation and fairness. It would have been interesting to find in the first chapter a more precise account of how the Royal Air Force frustrated the German efforts to defeat Great Britain from the air a few weeks after the collapse of France, and in the fourth chapter a discussion of the element of geographic space as a factor in the continued Russian resistance to the Nazi invasion. But these are minor omissions in a work dealing with the events of yesterday and they do not impair the truly great value of the book. An appendix of ten documents, a convenient chronology, a good index, and eight maps further enhance the utility of this handy and honest survey.—WALTER CONSUELO LANGSAM, Union College.

Harold Zink and Taylor Cole have edited the papers read in the European Affairs Section of the 1940 American Political Science Association Meeting under the title *Government in Wartime Europe* (New York, Reynal & Hitchcock, 1941; x, 249 pp. $1.50). With the possible exception of Great Britain there exist few coherent accounts of the constitutional and administrative changes effected under the impact of the war. Therefore, this richly documented volume fills a real gap. As definite trends are difficult to establish, the weight given to discernible developments is quite naturally bound to vary considerably according to the individual observer. Eugene P. Chase's article on England lays greatest stress on the vitality shown by the House of Commons, while W. H. Wickware's account emphasizes the organizational shortcomings still prevailing in many instances. "What economic control there has been, has been by the economic interests to be controlled" (p. 49). Fritz Morstein Marx's interesting contribution on Germany points out a number of features making for "the relative decline of the political functionary" in favor of the

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army and the regular bureaucracy. But even granted that such a distinction between the different strata of the ruling class can be made, the impact of such a change on German imperialism remains problematic. Cole, after having sketched the many changes German legal theory had to undergo in order to keep abreast with the unfolding program of expansion, discusses the prospects of a possible Thermidorian stage in the Nazi revolution. He comes to the conclusion "that . . . there seems to be no serious evidence of a tapering-off in the revolution". While agreeing with him to a great extent, this reviewer cannot share his opinion that there exist only "limited residues of a capitalist system" from which "further deviations" are made under the impact of war needs. The war seems to bring out ever more clearly that working agreements between a small number of monopolistic groups form one of the basic characteristics of the German system. John N. Hazard's article on the pre-war Soviet Union emphasizes the element of continuity whereas William Ebenstein draws attention to the elements which make for a weakening of Italian Fascism. J. G. Heinberg, Joseph S. Roucek and A. G. Ronhovde round up the picture with their reports on the Pétain clique, the Balkans, Norway and Sweden.—OTTO KIRCHHEIMER, Institute of Social Research, New York City.

A series of six lectures, delivered at the University of California at Los Angeles in the spring of 1939 by six specialists on modern Asia, has made its appearance in book form in *The Renaissance of Asia* (Berkeley and Los Angeles, University of California Press, 1941; xi, 169 pp. $1.50). These lectures, here printed in revised form since they were first delivered, include: "India under the New Constitution", by Frank J. Klingberg; "The Rôle of Indo-China in Asia", by Melvin M. Knight; "Domestic Factors in Japanese Foreign Policy", by Kazuo Kawai; "Japan's Aims and Aspirations on the Continent of Asia", by N. Wing Mah; "Soviet Russia in Asia", by Robert J. Kerner; and "The Future of China", by H. Arthur Steiner. Each lecture provides a brief and general introduction. They are not intended as original contributions or as exhaustive discussions. Within these limitations they will be of value to the beginning student and to the general reader. As seems inevitable in a book of this kind, the lectures are of uneven value. Professor Klingberg speaks dispassionately on India's constitutional problems. Professor Knight's discussion of Indo-China is journalistic rather than historical. Japan's domestic strife as mirrored in foreign policy is ably surveyed by Professor Kawai. Professor Mah is too ardent

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a Chinese Nationalist to treat with historical balance Japan's recent policy in China. For instance, as a historian, Professor Mah remembers (p. 96) Hideyoshi's invasion of Korea, but does not recall the Mongol invasion of Japan. Professor Kerner gives an excellent summary of recent Soviet policy in Asia. There are some errors in conclusions such as that with respect to the Sino-Japanese convention of 1885 (p. 123). Professor Steiner deals with a dangerous subject in prognosticating the future of China. His statement, among others, that "Sun Yat-sen laid the foundations of Western democracy in China" is open to discussion.—PAUL H. CLYDE, Duke University.

Recent years have seen an increasing apreciation of the importance in seventeenth-century political thought of Gerrard Winstanley. But his works have been rare and hard to get at. No library has a complete collection of them. Of the most important—*The Law of Freedom in a Platform*—the editor mentions only one copy in the United States, that in the University of Chicago Library, although there are several in England. Professor G. H. Sabine has greatly aided students of the history of political ideas by preparing a complete, or almost complete, edition of the writings of this sublime idealist who could truthfully say that he spoke "for and in behalf of all the poor oppressed people of England, and the whole world." *The Works of Gerrard Winstanley: With an Appendix of Documents Relating to the Digger Movement*, edited, with an Introduction, by George H. Sabine (Ithaca, Cornell University Press, 1941; viii, 686 pp. $5.00), contains the full text of sixteen of Winstanley's writings, abstracts of three more, and an appendix of seven documents "pretty certainly not written by Winstanley", but connected with the Digger Movement. Every document in the volume is preceded by a short bibliographical note giving its date, its origin and the libraries where copies may be found. Prefacing the whole, is a seventy-page introduction that summarizes Winstanley's life and ideas, describes his communist experiment at Cobham, and gives an interpretation of his place in the life and movements of the seventeenth century. This interpretation is in religious rather than economic or political terms. Winstanley, it argues, was primarily a mystic, one of a large number who underwent a religious experience that changed their whole lives. But whereas most mystics extracted from that experience a teaching concerning personal life alone, Winstanley caught also the vision of a new society. It was the inspiration of this vision that led him to undertake the communist digging at Cobham and, later, to give in

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The Law of Freedom (1652) a picture of a communist commonwealth. Religious mysticism preceded and was the source of Winstanley's social ideas and projects rather than being, as some have argued, the result of their failure. There is so little evidence concerning Winstanley's life and development that any reconstruction of them must at times depend on a thin line of argument. This is obvious even in the cautious reasoning of Professor Sabine. He can rightly claim, however, that his picture fits into the religious and theological framework of seventeenth-century thought better than the purely economic interpretations sometimes given. — T. P. PEARDON, Barnard College.

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